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Official Report

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Third Session, 1939

23rd, 24th, 27th, 28th November, 1st, 6th, 8th, 11th to 15th, 18th to 21st December, 1939, 3rd to 5th, 8th to 12th and 15th to 19th January, 1940

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BENGAL LEGISLATIVE COUNCIL.

PRESIDENT.

The Hon'ble Mr. SATYENDRA CHANDRA MITRA, M.L.C.

DEPUTY PRESIDENT.

Mr. HAMIDUL HUQ CHOWDHURY, M.L.C.

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ASSISTANT SECRETARY TO THE COUNCIL.

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REGISTRAR TO THE COUNCIL.

Mr. T. K. GANGULI, (offg.).

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Begum HAMIDA MOMIN.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur.

Mr. H. C. A. HUNTER.

GOVERNMENT of BENGAL.

GOVERNOR OF BENGAL.

His Excellency Sir JOHN ARTHUR HERBERT, G.C.I.E.

MEMBERS OF THE COUNCIL OF MINISTERS.

The Hon'ble Mr. ABUL KASEM FAZLUL HUQ, in charge of the Education Department.

The Hon'ble Mr. NALINI RANJAN SARKER, in charge of the Finance Department.

The Hon'ble Khwaja Sir NAZIMUDDIN, K.C.I.E., in charge of the Home Department.

The Hon'ble Sir BIJOY PRASAD SINGH ROY, in charge of the Revenue Department.

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca, in charge of the Department of Local Self-Government and Industries.

The Hon'ble Maharaja SRIS CHANDRA NANDY, of Cossimbazar, in charge of the Department of Communications and Works.

The Hon'ble Mr. HUSEYN SHAHEED SUHRAWARDY, in charge of the Departments of Commerce and Labour and Rural Reconstruction.

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur, in charge of the Judicial and Legislative Department.

The Hon'ble Mr. PRASANNA DEB RAIKUT, in charge of the Forest and Excise Departments.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK, in charge of the Co-operative Credit and Rural Indebtedness Department.

The Hon'ble Mr. TAMIZUDDIN KHAN, in charge of the Departments of Public Health and Medical and Agriculture and Veterinary.

BENGAL LEGISLATIVE COUNCIL

ALPHABETICAL LIST OF MEMBERS.

A

1. Ahmed, Mr. Nur. [Chittagong Muhammadan (Rural).]
2. Ahmad, Khan Bahadur Naziruddin. [Burdwan Division Muhammadan (Rural).]
3. Ahmed, Mr. Mesbahuddin. [Bengal Legislative Assembly.]

B

4. Baksh, Mr. Kader. [Bengal Legislative Assembly.]
5. Banerjee, Rai Bahadur Keshab Chandra. [Dacca Division North General (Rural).]
6. Barua, Dr. Arabinda. [Chosen by the Governor.]
7. Bose, Rai Bahadur Manmatha Nath. [Burdwan Division South-West General (Rural).]

C

8. Chakraverti, Mr. Shrish Chandra. [Calcutta General (Urban).]
9. Chaudhury Mr. Moazzemali *alias* Lal Mia. [Faridpur Muhammadan (Rural).]
10. Chowdhury, Khan Sahib Abdul Hamid. [Mymensingh West Muhammadan (Rural).]
11. Chowdhury, Mr. Khorshed Alam. [Bakarganj Muhammadan (Rural).]
12. Chowdhury, Khan Bahadur Rezzaqul Haider. [Noakhali Muhammadan (Rural).]
13. Chowdhury, Mr. Hamidul Huq. [Bengal Legislative Assembly.]
14. Chowdhury, Mr. Humayun Reza. [Rajshahi *cum* Malda Muhammadan (Rural).]
15. Cohen, Mr. D. J. [Chosen by the Governor.]

D

16. Das, Mr. Lalit Chandra. [Chittagong Division General (Rural).
17. Datta, Mr. Bankim Chandra. [Bengal Legislative Assembly.]
18. Datta, Mr. Narendra Chandra. [Bengal Legislative Assembly.]
19. D'Rozario, Mrs. K. [Chosen by Governor.]
20. Dutta, Mr. Kamini Kumar. [Bengal Legislative Assembly.

E

21. Ellahi, Khan Bahadur S. Fazal. [Presidency Division South Muhammadan (Rural).]
22. Ehmail, Khan Bahadur Alhadj Khwaja Muhammad. [Dacca North-West Muhammadan (Rural).]

G

23. Goswami, Mr. Kanai Lal. [Calcutta Suburbs General (Urban).]

H

24. Hunter, Mr. H. C. A. [European.]
25. Haider, Nawabzada Kamruddin. [Bengal Legislative Assembly.]
26. Hosain, Khan Bahadur Saiyed Muzzamuddin. [Bengal Legislative Assembly.]
27. Hossain, Mr. Latafat. [Chosen by the Governor.]
28. Hossain, Mr. Mohammad. [Bengal Legislative Assembly.]
29. Huq, Khan Bahadur Syed Mohammad Ghaziul. [Tippera Muhammadan (Rural).]

I

30. Ibrahim, Khan Bahadur Maulvi Mohammad. [Bogra Muhammadan (Rural).]

J

31. Jan, Alhadj Khan Bahadur Shaikh Muhammad. [Calcutta and Suburbs Muhammadan (Urban).]

32. Kabir, Mr. Humayan. [Bengal Legislative Assembly.]
33. Karim, Khan Bahadur M. Abdul. [Mymensingh East Muhammadan (Rural).]
34. Khan, Khan Bahadur Muhammad Asaf. [Rangpur Muhammadan (Rural).]
35. Khan, Maulana Muhammad Akram. [Bengal Legislative Assembly.]

L

36. Laidlaw, Mr. W. B. G. [European.

M

37. Maitra, Rai Bahadur Brojendra Mohan. [Rajshahi Division South-West General (Rural).]
38. Mackay, Mr. H. G. G. [Bengal Legislative Assembly.]
39. *Mitra, the Hon'ble Mr. Satyendra Chandra. [Bengal Legislative Assembly.]
40. Molla, Khan Sahib Subidali. [Bengal Legislative Assembly.]
41. Momin, Begum Hamida. [Chosen by the Governor.]
42. Mookerjee, Mr. Naresh Nath. [Bengal Legislative Assembly.]
43. Mookerji, Dr. Radha Kumud. [Bengal Legislative Assembly.]
44. Mukherji, Rai Bahadur Satis Chandra. [Burdwan Division North-East General (Rural).]

O

45. Ormond, Mr. E. C. [Bengal Legislative Assembly.]

P

46. Pal Chaudhury, Mr. Ranajit. [Presidency Division General (Rural).]
47. Poddar, Mr. H. P. [Bengal Legislative Assembly.]

R

48. Rahman, Khan Bahadur Ataur. [Presidency Division North Muhammadan (Rural).]
49. Rahman, Khan Bahadur Mukhlesur. [Rajshahi Division North Muhammadan (Rural).]
50. Rashid, Khan Bahadur Kazi Abdur. [Dacca South-East Muhammadan (Rural).]
51. Ray, Mr. Nagendra Narayan. [Bengal Legislative Assembly.]
52. Ross, Mr. J. B. [Bengal Legislative Assembly.]
53. Roy, Mr. Amulya Dhan. [Bengal Legislative Assembly.]
54. Roy, Rai Bahadur Radhica Bhusan. [Bengal Legislative Assembly.]
55. Roy Chowdhury, Mr. Krishna Chandra. [Chosen by the Governor.]

*President of the Bengal Legislative Council.

S

56. Sanyal, Mr. Sachindra Narayan. [Bengal Legislative Assembly.]
57. Sarker, Rai Sahib Indu Bhusan. [Dacca Division South General (Rural).]
58. Sen, Rai Sahib Jatindra Mohan. [Rajshahi Division North-West (Rural).]
59. Shamsuzzoha, Khan Bahadur M. [Bengal Legislative Assembly.]
60. Singh Roy, Mr. Saileswar. [Bengal Legislative Assembly.]
61. Sinha, Rai Bahadur Surendra Narayan. [Bengal Legislative Assembly.]
62. Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur. [Bengal Legislative Assembly.]
63. Scott-Kerr, Mr. W. F. [European.]

THE BENGAL LEGISLATIVE COUNCIL DEBATES

Volume III—No. 1.

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Thursday, the 23rd November, 1939, at 3-30 p.m. being the first day of the Third Session, pursuant to section 62(2) (*a*) of the Government of India Act, 1935.

Present :

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

War Situation.

Mr. PRESIDENT: Honourable members of the Council, the House meets to-day under the shadow of another Great War which, though limited at present to Europe, might any moment develop into a world conflagration. The present war was forced upon the Western democracies for the defence of the smaller and weaker nations which had, of late, been the victims of recurrent acts of aggression at the hands of those who worship at the shrine of authoritarianism. By tradition and temperament Indians are a peace-loving people and as such they cannot but abhor such acts of unprovoked aggression in the sphere of International relations. Naturally, therefore, Indian public opinion has from the very beginning of the war expressed itself unequivocally in favour of the stand taken by England and France for the support of the democracies. Let us hope this war will usher in a New Order which will ensure freedom for all nations, great and small, and for India her rightful place in the comity of nations.

Obituary Reference.

Mr. PRESIDENT: Before the House takes up the Order Paper of the day, I consider it my melancholy duty to refer to the sad death, on July 24 last at his Calcutta residence, of Alhadj Nawab Bahadur Sir Abdel Kerim Ghuznavi of Delduar, who was held in high esteem by the people of all communities in this province. The late Nawab

Bahadur had been in indifferent health for the last 4 or 5 years which compelled him to keep aloof from all public activities. A scion of an ancient and aristocratic Muslim family in East Bengal, the Nawab Bahadur availed himself of the benefits of a decent education and culture in his early youth from the public schools in England and also the University of Oxford—a fact to which is to be attributed the refreshing candour and innate generosity which characterised the activities of his many-sided public life in later years. He was called upon to serve his country and fellow-men in various spheres and it is no exaggeration to say that he acquitted himself with considerable credit in all of them. Those who had opportunities of coming into closer contact with him could not but be impressed by the fact that he was free from communal passions and prejudices. I happened to be a colleague of his in the old Bengal Legislative Council in 1924 and I can personally testify to the broad outlook and sweet reasonableness which he displayed even on matters where we had to differ from him. He made extensive travels in Hedjaz, Palestine, Egypt, Sudan, Syria and Iraq and the insight into the problems relating to these Muslim States which he acquired stood him in good stead in functioning as one of the accredited leaders of his community. In his death we mourn the loss of a distinguished public servant and an eminent representative of the landed aristocracy of Bengal. May his soul rest in peace!

I would request the honourable members to rise in their places as a mark of respect to the memory of the illustrious deceased. (All the members then rose in their places.)

It will be duty of the Chair to convey to the members of the bereaved family the sincere sympathy and heart-felt condolences of the Council.

(After a pause) Outstanding questions of the May-July Session, 1939, will now be answered.

QUESTIONS AND ANSWERS

Replies to questions unanswered in the May-July Session, 1939.

District Sub-Registrar of Howrah.

131. **Rai Sahib INDU BHUSAN SARKER:** (a) Is the Hon'ble Minister in charge of the Education Department aware that the District Sub-Registrar of Howrah seldom observes regularity in attending office but ordinarily attends office between 12 noon and 2 p.m.?

(*b*) Is the Hon'ble Minister aware that he does not sit in the *ejlas* to receive the documents from the parties but he receives them in his Chamber where the public has no access?

(*c*) Is it a fact that he asks the party applying for commission to provide him with a conveyance although he realises the prescribed travelling allowance from the party for the same?

(*d*) Is it a fact that this officer has been degraded and transferred from Dacca to Howrah?

MINISTER in charge of the Education Department the Hon'ble Mr. A. K. Fazlul Huq: (*a*) It has been found after enquiry that the District Sub-Registrar attends office punctually at 10-30 a.m.

(*b*) No. He receives documents sitting in *ejlas*.

(*c*) No.

(*d*) No. He was transferred from Dacca to Howrah in the interests of the public service.

Trained female teachers for primary schools.

132. Khan Bahadur NAZIRUDDIN AHMAD (on behalf of Mr. Nur Ahmed): (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state if he is aware of the fact that there is a great demand of trained female teachers for primary schools and that there is a great dearth of such teachers in Bengal at present?

(*b*) Is it a fact that the number of schools for the training of female teachers for primary schools is small in Bengal as compared to that of other provinces? Is it a fact that the Punjab Government has recently started 200 normal schools for the training of female teachers for primary schools?

(*c*) Is it a fact that in 1936 there were 67 training schools for girls with 3,399 girls on the roll in Madras, 21 schools with 899 girls in Bombay, 54 such schools with 579 girl students in the United Provinces, 18 schools with 643 girls in the Punjab, and only ten schools with 287 girl students in Bengal?

(*d*) If so, what steps since then has the Government taken to increase the number of training schools for girls, and what further measures does the Government propose to take in near future? If not, why not?

The Hon'ble Mr. A. K. FAZLUL HUQ: (*a*) There is some demand for trained female teachers for primary schools.

(*b*) In certain provinces there are larger number of schools for the training of female teachers than in Bengal. I have no information about the figures relating to the Punjab.

(*c*) Yes.

(*d*) Two training schools for women teachers have recently been started in Calcutta—one attached to the Saroj Nalini Industrial School and the other attached to the Vidyasagar Bani Bhawan. In addition to these, there is a proposal for starting a female training school at Chittagong. The question of the improvement of the existing vernacular training school at Dacca is also under consideration.

Lokenath High School of Rajshahi.

133. Khan Sahib ABDUL HAMID CHOWDHURY: Will the Hon'ble Minister in charge of the Education Department be pleased to state—

(*a*) whether the Mussalman students of the Government-aided "Lokenath High School" of Rajshahi town receive the same privileges regarding admission, stipends and free-studentships as those enjoyed by the Hindu students of the school;

(*b*) if the answer to clause (*a*) be in the negative, whether the Government proposes to redress the grievances of the Mussalman students;

(*c*) the number of Hindu and Mussalman boys of the Lokenath High School, Rajshahi;

(*d*) the number of Hindu and Mussalman teachers of the same school; and

(*e*) whether there is any Mussalman member on the Governing Body of that school?

The Hon'ble Mr. A. K. FAZLUL HUQ: (*a*) No distinction is made as regards admission between Hindu and Moslem students. The Hindu students are eligible for more free-studentships than the number due to them according to departmental rules. This is reported to be in part due to the concession arising out of the Sitlai Estate contribution. The Moslem students are eligible for a somewhat smaller number of free-studentships than the number allowable to them according to the departmental rules.

(*b*) I am making an enquiry and shall take whatever steps are suitable to the circumstances as may be found after enquiry.

(*c*) On the 31st March, 1939, there were 392 Hindu students and 168 Moslem students on the rolls of the school.

(*d*) On the same date there were 21 Hindu teachers and 3 Moslem teachers.

(*e*) Yes, there are two Moslem members on the Governing Body.

Operation of the Government of India, Adaptation of Indian Laws Order, 1937.

134. Rai Bahadur SURENDRA NARAYAN SINHA: (*a*) Is the Hon'ble Minister in charge of the Finance Department aware of the fact that great difficulty has arisen in connection with the receipt of money by the District Boards as a result of the operation of the Government of India, Adaptation of Indian Laws Order, 1937, which makes public works cesses, fines and penalties imposed under the Local Self-Government and other Acts creditable to the Provincial Revenues to be redistributed on the basis of equivalence by the Provincial Government among the District Boards, etc.?

(*b*) Is the Government aware that the Collectors of different districts have sent references to the Accountant-General, Bengal, to direct and instruct them as to how to make the redistribution?

(*c*) Is the Government considering any notes from the Accountant-General to make the necessary reappropriation to the District Boards and when will it be possible for the Government to come to a final decision to pass the necessary orders for such appropriation?

(*d*) Does the Government propose to introduce necessary legislation to do away with this complicated round-about process?

MINISTER in charge of the FINANCE DEPARTMENT (the Hon'ble Mr. Nalini Ranjan Sarker): (*a*) Government are aware that owing to an accounting difficulty there was some delay in the payment of cess collections to the District Board of Murshidabad. Steps have since been taken to ensure regular payment.

(*b*) A few references on technical points were received by the Accountant-General.

(*c*) All the references have been disposed of by the Accountant-General.

(*d*) Government are advised that legislation to restore the *status quo* in the matter of dues affected by the "Adaptations" is barred by section 110 (*b*) (*ii*) of the Government of India Act, 1935.

Gambling.

135. **Mr. RANAJIT PAL CHOWDHURY:** (a) Will the Hon'ble Minister in charge of the Home Department be pleased to state if the Calcutta Police is aware that several persons are running a gambling den at 5/1, Royal Exchange Place, Calcutta?

(b) If so, what steps have been taken against the persons concerned?

(c) Is it a fact that Mr. D. N. Bhattacharjee, Inspector, raided the said place on the 28th August, 1935, armed with a warrant issued by the Officiating Commissioner of Police, Mr. A. D. Gordon, C.I.E., and arrested about 560 persons under sections 44 and 45 of the Calcutta Police Act and that all the persons were found guilty and fined?

(d) Is it a fact that the said persons claimed in the court that they did not assemble there for gambling but assembled there for legitimate business and that they had there a limited concern named the Eastern Bengal Jute Association, Limited, and that Mr. Bilasrai Poddar, Bhagwandas Jhunjhunwala and several others were the Directors of that Association?

(e) Is it a fact that the Eastern Bengal Jute Association, Limited, has an asset of about forty-five thousand rupees and liabilities of about eight thousand rupees according to the last balance-sheet submitted to the Registrar, Joint Stock Companies, Bengal?

(f) Is it a fact that after the said raid and the said decision of the case by the court, no account was submitted about the disposal of the said capital of about forty thousand rupees?

(g) Is it a fact that the said Eastern Bengal Jute Association, Limited, was situated at 5/1, Royal Exchange Place, and after the mysterious disposal of the fund of that limited concern, the Directors and office-bearers of the said concern have started the present organisation (alleged gambling den) with the same furniture and Directors in the same building?

(h) Is it a fact that the then learned Chief Presidency Magistrate made certain remarks about the Calcutta Police in the concluding portion of his judgment delivered against the said organisation on the 24th February, 1936? If so, will Government be pleased to state exactly what the terms of the remarks were?

(i) If the answers to clauses (a) to (h) be in the affirmative, have any steps been taken against these people for the mysterious disposal of large funds of a limited concern and does the Government propose to take steps against those persons who have started the present new limited concern in the same building with the same people and furniture and under the same landlord?

(*j*) If so, what are they; and if not, does the Hon'ble Minister propose to investigate into the matter and place the results on the table of the House? If not, why not?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): (*a*) No.

(*b*) Does not arise.

(*c*) Yes; the Inspector raided the place on the 26th August, 1935, with a warrant issued by Mr. Gordon and arrested 544 persons, the majority of whom were convicted.

(*d*) Yes.

(*e*) and (*f*) From the balance-sheet, up to 1934-35, as filed with the Registrar, Joint Stock Companies, on the 12th March, 1936, it appeared that the assets of the Association were shown as Rs. 45,053-5-9 against a liability of Rs. 8,277-7-9. No further accounts were filed as the Association was removed from the Registrar under section 247 of the Indian Companies Act on its being declared illegal by the High Court on the 2nd July, 1936.

(*g*) I am not aware of it.

(*h*) Yes, but the remarks made by the Chief Presidency Magistrate in his judgment were expunged by the Calcutta High Court.

(*i*) and (*j*) No complaints have been received regarding the disposal of the balance of the funds of the Eastern Bengal Jute Association, Limited. It is not proposed to take any action against the present Association unless evidence is forthcoming of illegal practices.

Appointments to the posts of Jailors.

136. Khan Bahadur ATAUR RAHMAN: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) if it is a fact that at present out of twenty-four permanent Jailors in Bengal only five are Muhammadans;

(*b*) if it is a fact that none of the three Deputy Jailors, at present acting as Jailors, are Muhammadans;

(*c*) whether both the last two permanent vacancies which occurred recently in the grade of Jailors, have been filled up by two Hindu Deputy Jailors; and

(*d*) whether the Government propose to give a due communal share in the grade of Jailors, in compliance with the latest Government orders, by promotion of Muhammadan Deputy Jailors or by direct recruitment from outside?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) and (*c*) Yes.

(*b*) No. A Moslem Deputy Jailor is acting as Jailor.

(*d*) Promotion is made on the criteria of seniority and merit and not on communal considerations. Jailors are not recruited direct from outside but are promoted from the cadre of Deputy Jailors and European Warders

Khan Bahadur SYED MUAZZAMUDDIN HOSAIN: With reference to answer (*d*), will the Hon'ble Minister consider the desirability of recruiting directly jailors from educated graduates?

The Hon'ble Khwaja Sir NAZIMUDDIN: I cannot give a definite promise but this is one of the questions which I will look into along with the application of the Government resolution on the communal ratio.

Appointment of Warders in Jails.

137. Khan Bahadur ATAUR RAHMAN: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) the number of Head Warders, Warders and Extra Warders in Bengal Jails;

(*b*) how many of them are Bengalis;

(*c*) how many of them are Muhammadans;

(*d*) whether it is proposed to stop recruitment of up-country men to the posts; and

(*e*) what steps have been taken to appoint Muhammadan Warders and Head Warders?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) Chief Head Warders and Head Warders—200; Warders, including females—1,949; Extra Warders—233.

(*b*) 383.

(*c*) 452.

(*d*) No. Preference is now being given to suitable Bengali candidates.

(*e*) Suitable Moslem candidates are given preference for the post of Warder. Appointments to the post of Head Warder are made by promotion on the basis of merit and seniority.

Cottage industries of Chittagong

138. Khan Bahadur NAZIRUDDIN AHMAD (on behalf of Mr. Nur Ahmed): (*a*) Will the Hon'ble Minister-in charge of the Industries Department be pleased to state whether it is a fact that the Pathantully Muhallah of the Chittagong Municipality, Satkania thana, and Patiya, of Chittagong, were once famous for cottage industries of rope-making, weaving, net-making and hand paper-making, respectively.

(*b*) Is it a fact that the once flourishing rope-making cottage industry of Pathantuly, weaving and net-making of Satkania and hand paper-making of Patiya are now fast dying out?

(*c*) Will the Hon'ble Minister concerned be pleased to state if he proposes to hold enquiries into the present condition of these cottage industries and after due enquiries to take such reasonable measures as he thinks proper to revive and revitalise these cottage industries? If not, why not?

The Hon'ble Mr. NALINI RANJAN SARKER (on behalf of the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca): (*a*) and (*b*) Yes.

(*c*) The Industrial Survey Committee appointed by the Government have been inquiring into the condition of cottage industries and measures necessary for their revival and development. Suitable action will be taken on receipt of the Committee's report.

Honorary Magistrates.

139. Rai Bahadur SURENDRA NARAYAN SINHA: Will the Hon'ble Minister in charge of the Judicial and Legislative (Judicial) Departments be pleased to state—

(*a*) how many Honorary Magistrates there are under the Government of Bengal in the Province,

(*b*) how many of such Magistrates are Magistrates of the First Class, how many of the Second Class and how many of the Third Class;

(*c*) what amount is spent by the Government in connection with the establishment of Honorary Magistrates; and

(*d*) what is the rate of disposal of cases by such Magistrates as compared with stipendiary Magistrates?

MINISTER in charge of the JUDICIAL and LEGISLATIVE DEPARTMENTS (the Hon'ble Nawab Musharruff Hosain, Khan Bahadur): (*a*) 517; and (*b*) 45; 118; and 354. The attention of the hon'ble member is invited to the Bengal Civil List corrected up to 1st January, 1939. Gentlemen appointed before 1898 and those who are permitted to retain the designation of Honorary Magistrate have been excluded.

(*c*) The information is not easily available and cannot be obtained without an expenditure of time and labour which the Government regret they are unable to undertake.

(*d*) Cases disposed of in 1937 by—

Honorary Magistrates	...	38,603
Stipendiary Magistrates	...	141,695

Leper Colony of Midnapore.

140. Rai Bahadur MANMATHA NATH BOSE: *(*e*) Is it a fact that the District Board of Midnapore has since opened four Leper Clinics in thana Salbani, five in thana Binapore, four in thana Garbeta, one in thana Panchkura, two in thana Jhargram, two in thana Gopiballavpore, and one in thana Tamluk?

(*g*) Is it a fact that the Midnapore District Board drew a scheme for a colony of 100 lepers at a capital cost of Rs. 52,500 and a recurring cost of Rs. 14,000 only and that the said District Board provided for the entire capital cost and half the recurring cost in their budget of 1937-38 (and that the Director of Public Health strongly recommended the said scheme of the Midnapore District Board)?

The Hon'ble Mr. TAMIZUDDIN KHAN: The statistics collected some time ago are now obsolete. The latest information is—

(*e*) Yes. In addition one leprosy clinic has been established in thana Contai.

(*g*) Yes. The scheme was recommended by the Director of Public Health, Bengal.

141. Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister in charge of the Finance Department be pleased to state—

(*a*) what has been the total expenditure from Public Exchequer for the last ministerial tour;

*Other clauses of the question were replied to on the 11th July, 1939.

(b) who were the Hon'ble Minister who were concerned in the last tour and what are the places they visited;

(c) whether the places they visited lie within the Dacca Rural Muhammadan Constituency;

(d) whether it is a fact that they or any of them participated in the election campaign of the successful Moslem League candidate in the last bye-election in the said constituency;

(e) if the answer to clause (d) be in the affirmative, whether they will be allowed or whether they have been allowed tour expenses from the Public Exchequer; and

(f) what for the last tours were undertaken by the Hon'ble Ministers?

The Hon'ble Mr. NALINI RANJAN SARKER: A statement giving the necessary particulars is laid on the table.

Statement referred to in the reply to Question No. 1.

Department.	When Hon'ble Minister was last on tour.	Expenses of the tour.	Whether the places visited lie within the Dacca Rural constituency.	Whether Hon'ble Minister participated in the election campaign in the constituency.	If the cost of Hon'ble Minister's journey has been borne by public exchequer.	Purpose of the last tour.
1	2	3	4	5	6	7
		Rs. a.				
Judicial	11th to 17th May, 1939 ..	165 0	No ..	No ..	Yes ..	Official.
Commerce and Labour ..	11th May, 1939 ..	203 0	No ..	No ..	Yes ..	Official.
Public Health ..	18th June, 1939 ..	57 4	No ..	No ..	Yes ..	Official.
Communications and Works	12th to 13th May, 1939 ..	100 0	No ..	No ..	Yes ..	Official.
Forest and Excise ..	17th to 20th June, 1939 ..	72 0	No ..	No ..	Yes ..	Official.
Co-operative Credit and Rural Indebtedness.	15th to 18th June, 1939 ..	116 8	No ..	No ..	Yes ..	Official.
Finance	13th to 17th May, 1939 ..	148 12	No ..	No ..	Yes ..	Official
Home	1st week of June, 1939 ..	Not known	Yes	Yes ..	No ..	Official and political.
Revenue	20th to 22nd May, 1939 ..	53 0	No ..	No ..	Yes ..	Official.
Education	29th May to 3rd June, 1939	190 0	Yes ..	Yes ..	Yes ..	Official and Political.
Industries	17th May to 9th June, 1939	613 15	Yes ..	Yes ..	Yes ..	Official and Political.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Finance Minister please look at the statement? In reply to the question as to when the Hon'ble Home Minister was last on tour, the answer is during the 1st week of June, 1939. Then in reply to the question as to whether the places visited lie within the Dacca Rural Muhammadan constituency, the answer is in the affirmative. Again, in reply to the question as to whether the Hon'ble Minister participated in the election campaign, the answer is "Yes". But in reply to the question if the cost of the Hon'ble Minister's journey has been borne by public exchequer, the answer is "No." As regards the purpose of the tour, the answer is—official and political. May I take it that the cost of the journey was not borne by the public exchequer and no bill was submitted because the rules did not permit any such expenses being borne by the public exchequer where an election campaign was carried on by a Minister?

The Hon'ble Mr. NALINI RANJAN SARKER: The answer is in the negative.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Finance Minister please look at the statement again regarding the departments—Education and Industries? It appears from the statement that though the Hon'ble the Chief Minister participated in the election campaign in the Dacca Rural Constituency, the expenses were borne by the public exchequer. So was the case with the Hon'ble Nawab Bahadur of Dacca. He also participated in the election campaign in the Dacca Rural Constituency but the cost of the journey was borne by the public exchequer. Why was this difference between the claims of these two Ministers and the claim of the Hon'ble the Home Minister?

The Hon'ble Mr. NALINI RANJAN SARKER: That depended on the Hon'ble Minister himself.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state if he thought that it was not proper and fair to submit any such bill when he actually went out on electioneering campaign?

The Hon'ble Mr. NALINI RANJAN SARKER: That is a matter of opinion and ought to be put to the Hon'ble Home Minister himself, and not to me.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state if it was that electioneering campaign in the Dacca Rural Constituency where a certain Muhammadan lost his life?

The Hon'ble Mr. NALINI RANJAN SARKER: For that, you will have to put a question to the Minister in charge and not to me.

Mr. LALIT CHANDRA DAS: Mr. President, Sir, this is not an answer to my question. My question was whether it was that electioneering campaign.

The Hon'ble Mr. NALINI RANJAN SARKER: This is not within my knowledge.

Replies to Questions of the Current Session.

Education of prisoners.

1. Khan Bahadur NAZIRUDDIN AHMAD (on behalf of Mr. Nur Ahmad): (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state if any arrangement has been made in Bengal for the education of prisoners by paid teachers as is done in the Punjab?

(*b*) If not, what steps does the Government of Bengal intend to take in this matter?

(*c*) What is the total annual expenditure incurred for education of prisoners in Bengal?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) Yes. Two paid teachers have been appointed in the Presidency Jail, in each of the Central Jails at Alipore, Dacca and Rajshahi and in the Berhampore District Jail and one in the Midnapore Central Jail.

(*b*) Does not arise.

(*c*) The total expenditure during 1938-39 was Rs. 3,727 approximately. Estimated expenditure in 1939-40 is Rs. 6,100.

Prohibitory orders on Sj. Saradindu Bhattacharjea and Sj. Shusil De.

2. Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) whether it is a fact that the political prisoners Sj. Saradindu Bhattacharjea and Sj. Shusil De were released before expiry of their term of sentence unconditionally on the 9th October last;

(b) whether it is a fact that as soon as they came out of jail they were served with notice under the Defence of India Ordinance prohibiting them from entering their own district, Chittagong;

(c) whether since then they are living on charity in Calcutta where they have no friends and relations to maintain them; and

(d) whether the Government proposes to remove the prohibitory order on them without delay to give them a chance of living with their families and not to live on charity at Calcutta?

The Hon'ble Khwaja Sir NAZIMUDDIN: (a) and (b) Yes.

(c) I have no official information on the point.

(d) No.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state if any application was made by Saradindu Bhattacharjea and Sushil De detailing their circumstances to Government and praying for being supplied with funds for their living?

The Hon'ble Khwaja Sir NAZIMUDDIN: Not as far as I am aware of.

The Gumti embankment.

3. **Mr. LALIT CHANDRA DAS:** (a) Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state whether it is a fact that for many years, crops are being destroyed on account of the breaches of the Gumti embankment in the district of Tippera?

(b) Has the Hon'ble Minister read a report in the *East Bengal District Gazetteer* to the effect that in the year 1784 crops were destroyed by flood due to breaches in the Gumti embankment and there was famine in the flood-affected area and 7,000 people died of starvation and 12,000 people left the locality in search of relief?

(c) Will the Hon'ble Minister be pleased to state in what way the treatment of this embankment by this Government has differed in any material particulars from its treatment by the old Government?

(d) Is it a fact that attention of the Government is being drawn continually to this question since it has come into being and that besides promises and proposals, the Government has done nothing to give permanent relief to the town of Comilla and the people of the Sadar subdivision of Tippera from the ravages of flood-water by breaches of the embankment?

(*e*) Have the Government been realising for more than twenty years Rs. 20,000 to Rs. 25,000 annually as the Gumti embankment tax in Tippera?

(*f*) Have there been breaches of embankment during this period every year causing destruction of crops of the tenants of the quarter from where the embankment tax is being realised?

(*g*) If so, are Government agreeable to pay damages?

(*h*) Did not this year also the water over-reach the highest water level and cause several breaches in the Government-controlled portion of the embankment causing destruction of crops and untold miseries to the people for the amelioration of which the public had to open flood relief fund and give the affected people temporary relief?

(*i*) Were plans for "escapes" prepared and estimates drawn up last year for giving relief to the people from the ravages of flood caused by breaches in the said embankment?

(*j*) Do the Government propose to put into action those plans?

(*k*) Will the Hon'ble Minister be pleased to state what steps, if any, Government intends to take in the next dry season as a permanent measure of relief from the breaches in the said Gumti embankment?

MINISTER in charge of the COMMUNICATIONS and WORKS DEPARTMENT (the Hon'ble Maharaja Srischandra Nandy, of Cossimbazar): (*a*) Damage to crops has generally been due to breaches in a portion of the embankment for the maintenance of which Government have not considered themselves responsible.

(*b*) I have seen the passage which I think the hon'ble member has in mind.

(*c*) So far there has been no change of policy.

(*d*) I understand that in recent years the town of Comilla has sustained little or no damage in consequence of breaches in the embankment. With regard to other areas, attention is invited to the answers which I have given to parts (*a*) and (*c*).

(*e*) During the last five years the average annual expenditure on the maintenance of the Government portion of the embankment has been about Rs. 16,115. Under section 58 read with sections 51 and 53 of the Embankment Act, Government cannot recover more than the amount spent; and under an arrangement with one of the zemindars fixing the maximum recoverable from him it may happen that realisations fall short of expenditure.

(*f*) Not in the Government portion.

(*g*) Does not arise.

(*h*) I am informed that there was only one breach in the portion referred to.

(*i*) Yes.

(*j*) and (*k*) I am not satisfied that any feasible scheme so far prepared would ensure complete immunity from flooding for the whole area commanded by the river. Discussions as to whether the whole embankment should be maintained by Government without recovering more than a portion of the cost are now proceeding.

Bridge over river Saraswati.

4. **Rai Bahadur MANMATHA NATH BOSE (on behalf of Rai Bahadur Satis Chandra Mukherji):** Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state how long the bridge on the Saraswati River in the Municipal town of Bansberia in the district of Hooghly has been kept closed to vehicular traffic? Will he please state at what stage or condition is the question of the reconstruction of the said bridge at present? Can the Government give an idea of the time when the bridge will be completed and be opened to vehicular traffic?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: I am making enquiries and hope to be in a position to give a reply at an early date.

May I, Sir, with your permission add the information which I have since received?

Mr. PRESIDENT: Yes.

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: The question refers to a breach which is within the jurisdiction of the Bansberia Municipality and Government cannot say when the breach is expected to be completed. It is also a fact that vehicular traffic has been suspended for a number of years.

Investigation into the causes of flood.

5. **Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur:** Is the Hon'ble Minister in charge of the Communications and Works Department aware that a Committee of Experts and Ministers of some of the Provinces like Bihar, the United Provinces and the Punjab were appointed to investigate into the causes of floods in some of those Provinces? If so, did the Government of Bengal take any steps by sending either a Minister or Departmental Officers to take part in the deliberations of that Committee? If not, why not?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: An Inter-Provincial Flood Conference attended by representatives of Bengal, Bihar and the United Provinces was held at Lucknow in January last. The Conference recommended that a Ganges River Commission should be constituted and that an *interim* committee of experts should be appointed for the purpose of collecting and studying the necessary data, and recommending remedial measures. This Province is represented on the committee by the Chief Engineer, Bengal, Irrigation.

With your permission, Sir, I may add that the Interim Committee had their first sitting at Lucknow from 16th to 18th of this month and they have considered further matters in connection with protection from floods.

Motions for Adjournment for Purposes of Debate.

Mr. PRESIDENT: Order, order. Three notices of adjournment motions have been received. The first one is from Begum Hamida Momin. She has given notice that the business of the House be adjourned to discuss a definite matter of urgent public importance, namely, "the failure of the Government of Bengal to impress upon the Government of India the necessity of keeping the Calcutta Port open for Haj pilgrim traffic this year (i.e., 1939), which is causing great inconvenience to the intending pilgrims from Bengal and Assam."

There is no doubt that this is a matter of public importance. But section 98 of the Bengal Legislative Council Procedure Rules lays down that the subject-matter of an adjournment motion must primarily be the concern of the Provincial Government. Will the honourable member please explain how this matter can be regarded as being primarily the concern of the Provincial Government?

Begum HAMIDA MOMIN: Mr. President, Sir, the question of the Calcutta Port is no doubt essentially a question for the Central Assembly. But looking into the history of this port, we find that when this port was opened the Government of India at every stage consulted the Bengal Government and finally when it decided in 1926 that the Calcutta Port should be opened for the Haj pilgrims, it was done so according to the advice of the Bengal Government. Under the Government of India Act, 1935, the Central Government with effect from the 1st April, 1939, were pleased to entrust by Notification No. F. 149-33/36G., dated the 30th March, 1938, to the Government of Bengal with the consent of the Central Government under the

provisions of the Port Haj Committee's Act, 1932 (Act XX of 1932), the Protection of the Muhammadan Pilgrims Act, 1896 (Bengal Act I of 1896), and the Indian Pilgrim Ships Rules, 1933, that is, the Calcutta Port Haj Committee Rules, 1933.

I am, therefore, inclined to believe and it is my conviction that the Bengal Government has a great deal to do with this question and they are primarily concerned with it. If they took the trouble of impressing upon the Government of India the hardships that poor Muhammadan pilgrims will have to undergo in order to cross the whole country to go to Bombay and how long they would have to wait there for ships to go to Zedda, I am sure the India Government which has always shown a sympathetic concern towards this question would have made some arrangements for opening the port even temporarily.

Mr. PRESIDENT: Your contention is that they have failed in their efforts to secure relief for the Haj pilgrims.

Begum HAMID MOMIN: Yes, Sir. The Government of Bengal could have impressed upon the Government of India the difficulty that the pilgrims will be put to if the port is closed.

The Hon'ble Khwaja Sir NAZIMUDDIN: Mr. President, Sir, it is with the greatest reluctance that I have to oppose this adjournment motion clearly because I feel that it is a question of precedent. If this motion is accepted, then it will lead to serious difficulties in the future. Besides, Sir, I feel that this motion is not admissible on the ground of our existing rule to which you have already referred.

There are many points on which I would like to take objection to this motion and they are all based on technical grounds and not on merits. As far as the main point of the mover is concerned, namely, that the would-be Haj pilgrims would be inconvenienced, that question is certainly one with which I fully agree with the Begam Sahiba. But unfortunately this is a matter on which the Local Government have no direct responsibility whatsoever. Haj is entirely a central subject. Discussion on the subject of Haj cannot be raised in any shape or form under the Government of India Act in the provincial legislature and therefore, Sir, when a subject cannot be discussed in the legislature because it is entirely a central subject, I feel that no motion of closure can be moved with reference to that subject. Besides, Sir, the adjournment motion, as it is worded, is still more difficult to accept, namely, the failure of the Government of Bengal to impress upon the Government of India the necessity of keeping the Calcutta Port open for Haj pilgrim traffic this year and the consequent inconvenience to the intending pilgrims from Bengal and Assam.

Now, if a motion of this character is accepted on this question, there is nothing to prevent any member from moving an adjournment motion on the ground of failure of the Government of Bengal to represent to the Government of India who should represent to the British Government that they should have taken steps not to have any war at all (laughter). Similarly, there are other subjects on which it can be said that though this Government has no responsibility whatsoever, the people of this province are affected and therefore the Local Government should have made representations to the Central Government and because they have not done so, therefore, an adjournment motion should be admitted. Thirdly, Sir, I feel that failure of Government on a question for which they are not directly responsible ought not to be discussed because Government are responsible to the legislature for subjects for which they are directly responsible. Both commission and omission about subjects for which they are not directly responsible ought not and could not be discussed in the provincial legislature. The Ministry is responsible to the legislature to for the subjects for which they are directly responsible; subjects for which they are not directly concerned should not, I submit, be allowed to be discussed in this legislature. For example, if you take the question of representation about Haj, for a responsible Government to make any representation, they must be in possession of all the facts: not only the one-sided difficulties and hardships of the would-be pilgrims or rather the pilgrims from Bengal, but they should also be in a position to know what are the difficulties of the Government of India and why they have not been able to allot a ship to Calcutta.

While the Government of Bengal are fully aware of the difficulties of Haj pilgrims if a ship is not allotted, they are not in possession of facts as to why the Government of India have stopped the pilgrim boat from sailing from Calcutta. Therefore, they are not in a position to make an effective representation of the subject. We must know both sides of the case to be able to put up a cast-iron case before the Government of India. The mere possession of one-sided information debars a responsible Government from making a representation on the subject. Therefore, it would not be correct to allow a discussion on a motion of this kind.

Now, Sir, there is another point which I would like to stress. I think—though I am making an allegation, still I am indirectly giving information as well—it is the rule that if a subject is brought before the House, members who are making any statements should make themselves responsible for their correctness. As far as this motion is concerned, it is entirely based on the alleged failure of the Government of Bengal to make a representation to the Central Government. Now, I would like to know how the Begum Saheba has satisfied herself that the Government of Bengal have made no representation on the subject.

That, I consider, Sir, is a very important point. If the Begum Saheba can be sure that the Government of Bengal have taken no steps in this matter, then I admit that if my previous objections are over-ruled, this motion can be admitted. But I maintain even if my previous objections are over-ruled, the fact that the Begum Saheba has not satisfied herself that the Government of Bengal have made no representation or taken no steps in this matter should debar her from moving this resolution. I want to convey to the House indirectly that as far as the Government of Bengal are concerned, they made a representation at the earliest opportunity available to them on this subject. I may mention certain dates in this connection. The Government of India stopped all sailings on 11th September, 1939, that is to say, in the month of September. Then they decided to resume sailings from Bombay and Karachi on 2nd November, 1939. A deputation of Muslim public waited on the local Government about the 4th or 5th of November, and immediately a representation was made to the Government of India. But before our letter could be despatched the Government of India issued a notification pointing out the reasons why they could not spare the ships. I may read just for the information of the House the reasons given by the Government of India as to why they cannot spare a ship. It says—

"The Haj season coincides with the peak periods of essential goods traffic. In ordinary circumstances sufficient shipping is available to offer necessary relief to railways. With the shortage of shipping now being experienced, the Government of India cannot contemplate the extended voyage from Calcutta, owing to the need for the economic use of cargo space. The Government of India therefore greatly regret that they have been compelled in the public interests to abandon the pilgrim ships from Calcutta."

Therefore, it would appear that although this was published before our letter on the subject reached them, subsequently they must have got it. I maintain, Sir, that in view of what I have said, particularly on the question of principle which I feel it is very important that this House should observe, the Council should confine themselves to the discussion of subjects for which the Government are directly responsible. Otherwise, we may discuss through adjournment motions practically anything we like. But there can be no criticism of Government for any act of omission or commission on subjects for which they are not directly responsible to the Legislature. That I maintain is one of the most important fundamental principles. Government can only be held responsible for those things for which they can give to the Legislature a satisfactory explanation, that is to say, on those subjects regarding which they are fully aware of all the facts, both for and against, and then they have either failed to do what they should have

done or done something which they should not have done. That is a question on which the Legislature can take us to task and hold us responsible——

Mr. PRESIDENT: Order, order. I appreciate the point. But before I give my ruling, I should like to hear Mr. Humayun Kabir, who has given notice of a similar motion, on this very point, viz., how this matter can be regarded as being under the administrative control of the Local Government.

Mr. HUMAYUN KABIR: Sir, I regret very much that the Hon'ble Sir Nazimuddin, in spite of his very eloquent appeal, has not been able to convince any members, I am sure, of this House with the arguments that he has advanced.

Mr. PRESIDENT: Order, order. He is not required to convince any member but only the President on a point of order (laughter).

Mr. HUMAYUN KABIR: I submit, Sir, that he has not succeeded in convincing the President. When we are not convinced, I am sure that you, Sir, with your acumen, are still less convinced.

I think that two or three points have been raised by the Hon'ble Sir Nazimuddin in order to contend that this is not a motion which should be allowed to be discussed in this House. This adjournment motion would be out of order on the following grounds: firstly, that it does not directly concern the Government of Bengal, secondly, that there is no way of Begum Hamida Momin knowing whether the Government of Bengal have made any representations or not to the Central Government—particularly the efforts which the Government of Bengal actually made. But I think, Sir, that the Hon'ble Sir Nazimuddin has failed to reply to the very pertinent point which was made by the Begum Saheba, viz., that by notification No. F149/37/36G., dated the 30th March, 1938, the Central Government with effect from the 1st of April, 1939, were pleased to entrust to the Government of Bengal with their consent the functions of the Central Government under the provisions of the Port Trust Act XXXII, Act XX of 1932 and several others. The main point I urge is that since by this particular notification of 30th March, 1938, the Government of Bengal were allotted the functions of the Central Government, with their consent, they are in the position of agents to the Central Government and therefore with regard to this particular question of Haj pilgrim traffic, the Bengal Government must take a due share of the responsibility for the fact that no ship has been provided from the port of Calcutta this year.

Then, with regard to the other point made as to how the Begum Saheba or any other member might know about the failure of the

representation of the Government of Bengal, I think that the Hon'ble Sir Nazimuddin has been arguing on a wrong premise. There is no suggestion on the face of it in the adjournment motion that the Bengal Government have not made any representation. The question is the failure of the Government to impress upon the Government of India. It may be that the Government of Bengal have made one representation and Sir Nazimuddin has given us a date on which such a representation was made. That does not mean that a sufficient representation has been made. It may even be that the Government of Bengal have made what they think to be a sufficient representation. But at the same time on that account the members of the House will not accept that sufficient representation has been made. What is sufficient for the Government of Bengal may not be sufficient for the members of this House and certainly may not be sufficient for the members of the public who have a right to know why the Haj pilgrim traffic should be interfered with in this manner. Thirdly, the point raised by Sir Nazimuddin was, if I may say so, entirely irrelevant. The question about the share of the Government of Bengal or this Council taking the Government of Bengal to task on account of its failure to represent to the Central Government or its failure to make certain other reprsentations somewhere else in order to prevent, propagate or do any other thing when this great war is raging is entirely irrelevant. There have been occasions in the past when discussions have been allowed on a similar motion and you have yourself admitted on a previous occasion an adjournment motion when we discussed the question of the sufferings which Bengalis had to undergo on account of the terrible riots which took place in Burma. There also the Government of Bengal first took up the plea that they were not directly involved [illegible] that they were not directly responsible for the maintenance of law and order there. But in spite of that you have, Sir, may I very humbly submit, rightly held that the Government of Bengal are certainly responsible for the lives and properties of Bengalee residents in Burma. Fourthly, Sir, I would submit that the Hon'ble Sir Nazimuddin has given us certain facts which we did not know before we came to this House. He stands convicted out of his own mouth, if I may say so, with regard to the failure of the Government of Bengal to impress sufficiently upon the Government of India about the importance of keeping Haj traffic open from the port of Calcutta, if I remember the dates rightly, the first information was from the Government of India in the form of a public notification on the 11th of September and then he said that the reply of the Government of Bengal went on the 4th of November. I think I am correct because I took down the figures.

The Hon'ble Khwaja Sir NAZIMUDDIN: It is not correct.

Mr. HUMAYUN KABIR: I would like to have correct information.

The Hon'ble Khwaja Sir NAZIMUDDIN: 11th September was the date of the first notification cancelling all sailings from all ports. Then, the Government of India decided to resume sailings from Bombay and Karachi on the 2nd November, 1939.

Mr. HUMAYUN KABIR: When was the letter of the Government of Bengal sent?

The Hon'ble Khwaja Sir NAZIMUDDIN: On the 7th November, 1939.

Mr. HUMAYUN KABIR: That is even worse. The Government of India had declared that there would be no shipping on the 11th of September and the Government of Bengal in their wisdom slept for more than two months after which on the 7th of November the Government of Bengal sent for the first time a communication to the Government of India and that also after the Government of India had made up their mind that ships would be provided at least from the two ports of Bombay and Karachi on the 2nd November. All these facts we did not know before what representations were actually made by the Government of Bengal. The Hon'ble Sir Nazimuddin has given us certain facts. In view of these considerations—I do not want to go into the merits of the question now—I submit, Sir, that you will allow the adjournment motion. When the occasion arises, we will go into the question of the port of Calcutta and also to the history of the rivalry of a particular European company which has been trying hard for a long time——

Mr. PRESIDENT: Order, order. I have given sufficient latitude to the honourable member as he had himself given notice of a similar motion. I think I have heard enough and I hold that this motion is out of order on the ground adduced by the Hon'ble Home Minister that it is not primarily within the administrative control of the Provincial Government.

The Council then adjourned for 15 minutes for prayer.

(After adjournment.)

Mr. LALIT CHANDRA DAS: Mr. President, Sir, I have got an adjournment motion——

Mr. PRESIDENT: Order, order. Another notice of adjournment motion was received from Mr. Lalit Chandra Das which runs thus:—

"This Council do adjourn its business to discuss a definite matter of urgent public importance, namely, the situation which has arisen

out of the Bengal Government notification No. 4785P., dated the 5th September, 1939, and published in an extraordinary issue of the *Calcutta Gazette*, dated the 6th September, 1939, embodying prohibitory orders for a period of six months commencing from 6th September last with regard to public meetings, assemblies or processions and the press in Bengal which has resulted in suppression of civil liberties with respect to all legitimate activities in those spheres."

The remaining portion of the motion is clearly out of order.

The Hon'ble Khwaja Sir NAZIMUDDIN: Mr. President, Sir, I have got objection to this motion being moved on the ground that this is a subject which could have been raised for discussion by means of a resolution and taken its chance in the ballot.

I submit, Sir, that the cause of action arose on the 5th September last when Government first published the notification. The two dates are 5th and 6th September. So, the honourable member had time to bring this subject before the House by means of a resolution, and I believe, Sir, that it is the practice—and a recognised practice—that a subject which can be discussed by means of a resolution should not be brought by means of an adjournment motion; otherwise it will mean that all resolutions can be discussed by means of adjournment motions.

Mr. PRESIDENT: On the contrary, it may be argued that the subject-matter of every adjournment motion can be discussed by means of a resolution.

The Hon'ble Khwaja Sir NAZIMUDDIN: I submit, Sir, that is not possible for two reasons. Under the rules, 21 days' notice is necessary to move a resolution. Supposing that there is not sufficient time to give notice of a resolution, then an adjournment motion can be raised; or if the matter has arisen after the date for notice has expired, then you can raise it by means of an adjournment motion. But here this matter was before the public from the 5th September; and the honourable member had sufficient time to exercise his right to move a resolution on this subject. On this ground, Sir, I oppose it.

Mr. PRESIDENT: Suppose, notice of such a resolution was given 21 days before but in that case the honourable member would have to depend on the caprice of the ballot box. He may not get any chance at all of moving his resolution. Will you please refer to clause (*iv*) of section 99 of the Legislative Council Procedure Rules which states that a motion must not anticipate a matter which has been previously appointed for consideration or with reference to which a notice of motion has been previously given, regard being had *to the probability of the matter anticipated being brought before the Council within a*

reasonable time. Where is the certainty or even the probability of the question being discussed when the matter depends entirely on the chance of the ballot box? So, clearly it does not come under the mischief of the Rule of Anticipation.

The Hon'ble Khwaja Sir NAZIMUDDIN: I submit, Sir, that if the honourable member had given notice of a resolution and if he had failed to get his chance in the ballot, then there would have been a legitimate ground for coming up with an adjournment motion on the ground that the matter was of urgent public importance which must be discussed immediately. The honourable member must, in the first instance, utilize the ordinary machinery for bringing a subject for discussion in the legislature. If that ordinary machinery cannot be utilized, then he has got a right to use the extraordinary method of bringing the subject before the legislature by means of an adjournment motion.

Mr. PRESIDENT: Will you please refer to the particular clause against which this motion offends?

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, it is an accepted rule. I find nothing definite in the rules. I admit it, but this is, I believe, an accepted practice here and everywhere. I submit, Sir, that it comes under section 98, if I may say so, which runs thus: "No motion for an adjournment of the business of the Council for the purpose of discussing a definite matter urgent public importance shall be admissible if it relates to a matter which is not primarily the concern of the Provincial Government". Sir, I take my stand on section 98.

Mr. PRESIDENT: That applies to the second portion?

The Hon'ble Khwaja Sir NAZIMUDDIN: No, Sir, to the first portion. The matter is, I submit, not urgent because the honourable member had his chance of giving notice of a resolution on this subject as soon as the legislature was called to meet. Therefore, Sir, I submit that this matter is no longer an urgent matter of public importance. The one fundamental principle of an adjournment motion is that notice should be given as soon as the cause of action arises. In this case, I submit that the cause of action arose on the 5th and 6th of September last and the honourable member had an opportunity of bringing the subject before the legislature through a resolution. He has not utilized it and therefore I submit that this is no longer an urgent matter of public importance.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I do not think that I should intervene after the speech of the Hon'ble Home Minister. But the question as to whether it has a probable chance of being discussed, which was mentioned by you, Sir, only arises if notice has been given in the form of a resolution. The rule definitely states that you may bring up a matter, which has been moved in the form of a resolution, as an adjournment motion if there is no probability of its coming up in the ordinary course. If the honourable member does not give notice of the resolution, the question of probability cannot be discussed. That rule clearly contemplates that when the Chair is going to adjudge the probability or not of a motion coming up for discussion, then the honourable member must have given notice of a resolution. It is only then, Sir, that you can adjudicate on the probability. I submit, Sir, that that rule which you yourself read out contemplates that notice should have been given in the form of a resolution.

Mr. PRESIDENT: I do not think that it will be seriously contended that the matter is not urgent when the motion for adjournment has been given notice of on the very first day of the present session. From my experience of the central legislature, I may say that there are innumerable cases in which it has been held that the point relating to the urgency of any matter cannot be affected if the adjournment motion is tabled on the first available opportunity. The honourable member has availed himself of the first opportunity, in this instance, by giving notice of the adjournment motion to-day. So, I hold that this motion is in order. Is there any objection from any honourable member to this motion being discussed?

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I object.

Mr. PRESIDENT: As there has been objection, I would request the honourable members who are in favour of this motion being discussed to rise in their places.

(Some members rose in their places.)

Mr. PRESIDENT: As less than 13 members have supported this motion for adjournment, I may inform the Hon'ble Member that he has not the leave of the Council.

There is another motion for adjournment from Mr. Humayun Kabir but it covers the same ground as the first one. So, I hold that it is out of order on the same ground.

Panel of Chairmen.

Mr. PRESIDENT: Under Rule 6 of the Bengal Legislative Council Procedure Rules, I nominate—

(1) Mr. Kamini Kumar Dutta,

(2) Begum Hamida Momin,

(3) Raja Bhupendra Narayan Sinha Bahadur, of Nashipur, and

(4) Mr. H. C. A. Hunter,

on the panel of Chairmen for the current session.

Committee on Petitions.

Mr. PRESIDENT: Under Rule 84 of the Bengal Legislative Council Procedure Rules, a Committee on Petitions is to be appointed by the President at the commencement of the first session in each financial year. Under the old Council Rules, the Committee being a sessional one, has ceased to exist. I therefore nominate—

The Deputy President (Chairman, *Ex-officio*),

(1) Mr. H. G. G. MacKay,

(2) Rai Sahib Jatindra Mohan Sen,

(3) Rai Surendra Narayan Sinha Bahadur, and

(4) Khan Bahadur Ataur Rahman,

on the Committee on Petitions.

Library Committee.

Mr. PRESIDENT: Under Rule 121 of the Bengal Legislative Council Procedure Rules, a Library Committee is to be appointed by the President at the commencement of the first session in each financial year. This being a new Committee under the present Council Rules, I nominate—

The President (Chairman, *Ex-officio*),

(1) Mr. H. C. A. Hunter,

(2) Dr. Radha Kumud Mookerji,

(3) Khan Bahadur Naziruddin Ahmad,

(4) Mr. Humayun Kabir,
(5) Rai Keshab Chandra Banerji Bahadur,
(6) Mr. Sachindra Narayan Sanyal, and
(7) Khan Sahib Abdul Hamid Chowdhury,

on the Library Committee for the current financial year.

House Committee.

Mr. PRESIDENT: Under Rule 122 of the Bengal Legislative Council Procedure Rules, I nominate—

The Deputy President (Chairman, *Ex-officio*),
(1) Begum Hamida Momin,
(2) Mr. W. B. G. Laidlaw,
(3) Mr. Bankim Chandra Datta,
(4) Mr. Saileswar Singh Roy,
(5) Khan Bahadur Rezzaqul Haider Chowdhury, and
(6) Mr. Mesbahuddin Ahmed,

on the House Committee for the current session.

Committee of Privileges.

Mr. PRESIDENT: Under Rule 120 of the Bengal Legislative Council Procedure Rules, the Committee of Privileges which was appointed by the House at its meeting held on 2nd February, 1938, consisting of—

Mr. Hamidul Huq Chowdhury (Deputy President, Chairman),
(1) The Hon'ble Sir Bijoy Prasad Singh Roy,
(2) Dr. Radha Kumud Mookerji,
(3) Mr. E. C. Ormond,
(4) Khan Bahadur M. Abdul Karim,
(5) Khan Bahadur Ataur Rahman,
(6) Mr. Humayun Kabir,
(7) Begum Hamida Momin,
(8) Khan Sahib Abdul Hamid Chowdhury,
(9) Mr. Kader Baksh,

(10) Khan Bahadur M. Shamsuzzoha,

(11) Raja Bhupendra Narayan Sinha Bahadur, of Nashipur,

(12) Rai Keshab Chandra Banerji Bahadur, and

(13) Mr. Ranajit Pal Chowdhury,

will continue till it is reconstituted at the commencement of the first session in the financial year, 1940-41.

Committee of Darga Khwaja Sahib, of Ajmer.

Mr. PRESIDENT: I am to inform the House that Khan Sahib Abdul Hamid Chowdhury has been elected to the Darga Khwaja Sahib Committee of Ajmer from the Muslim members of both the Houses. (Applause.)

The Governor's Assent to Bills passed by the Bengal Legislature.

Mr. PRESIDENT: I have now to inform the honourable members that the following Bills which were passed by both Chambers of the Bengal Legislature have been assented to by His Excellency the Governor under the provisions of section 75 of the Government of India Act, 1935, namely,—

(1) The Calcutta Municipal (Amendment) Bill, 1939.

(2) The Bengal Tanks Improvement Bill, 1939.

(3) The Calcutta and Suburban Police (Amendment) Bill, 1939.

(4) The Bengal Tenancy (Second Amendment) Bill, 1939.

(5) The Bengal Dentists Bill, 1939.

Ordinances promulgated by the Governor.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, under section 88(2)(a) of the Government of India Act, 1935, I beg to lay on the Table Bengal Ordinance No. 1 of 1939, viz., the Bengal Raw Jute Futures Ordinance, 1939.

Under the same rule, I also beg to lay on the Table Bengal Ordinance No. II of 1939, viz., the Bengal Hessian Cloth Futures Ordinance, 1939.

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, under section 88(2)(a) of the Government of India Act, 1935, I beg to lay on the Table Bengal Ordinance No. III of 1939, viz., the Bengal Jute Regulation Ordinance, 1939.

Notices, etc., in connection with Government and Non-official Bills.

Bengal Water-Hyacinth (Amending) Bill, 1938.

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, I beg to give notice that at the current Session of the Bengal Legislative Council I shall move by way of amendment to the motion for consideration of the Bengal Water-Hyacinth (Amending) Bill, 1938, by Khan Bahadur Saiyed Muazzamuddin Hossain, M.L.C., that the Bill be referred to a Select Committee consisting of—

(1) Khan Bahadur Saiyed Muazzamuddin Hossain,
(2) Mr. E. C. Ormond,
(3) Mr. Kamini Kumar Dutta,
(4) Rai Bahadur Radhika Bhushan Roy,
(5) Mr. Nur Ahmad,
(6) Khan Bahadur Maulvi Ataur Rahman,
(7) Khan Bahadur Maulvi Razzakul Haidar Chowdhury,
(8) Mr. Mukhlesar Rahman,
(9) Khan Bahadur Mohammad Ibrahim,
(10) Mr. Khorshed Alam Choudhury, and
(11) the mover,

with instruction to submit their report by the 1st May, 1940, and that the quorum of the Select Committee be fixed at five.

Inland Steam Vessels (Bengal Amendment) Bill, 1939.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I introduce the Inland Steam Vessels (Bengal Amendment) Bill, 1939, and in the current Session of this Council, I propose to move that the Inland Steam Vessels (Bengal Amendment) Bill, 1939, be taken into consideration and that thereafter the Bill as settled by the Council be passed.

Bengal Patni Taluk Regulation (Amendment) Bill, 1938.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, with your permission, I beg to move that the dates on or before which the Select Committee on the Bengal Patni Taluk Regulation (Amendment) Bill, 1938, by Khan Bahadur Rezzaqul Haider Chowdhury has been instructed to present its report be extended from 31st October, 1939, to 15th December, 1939.

Mr. PRESIEDNT: The question before the House is that the time be extended for the Select Committee on the Bengal Patni Taluk Regulation (Amendment) Bill, 1938, by Khan Bahadur Razzaqul Haider Chowdhury to submit its report from 31st October till 15th December, 1939.

(The motion was agreed to.)

Bengal Workmen's Protection (Amendment) Bill, 1939.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I introduce the Bengal Workmen's Protection (Amendment) Bill, 1939, and in the current Session of the Bengal Legislative Council, I beg to give notice that I shall move that the Bengal Workmen's (Amendment) Bill, 1939, be taken into consideration and thereafter that the Bill as settled by the Council be passed.

Emergency Rent Remission Bill, 1938.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I have the honour to give notice that at the current Session of the Bengal Legislative Council, I shall move by way of amendment to the motion for reference to a Select Committee of the Bengal Emergency Rent Remission Bill, 1938, by Khan Bahadur Saiyed Muazzamuddin Hossain, M.L.C., that the Bill be circulated for the purpose of eliciting opinion thereon by the 31st July, 1940.

The Bengal Non-agricultural Tenancy Bill, 1937.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I have the honour to give notice that at the current Session of the Bengal Legislative Council, I shall move by way of amendment to the motion for reference to a Select Committee of the Bengal Non-agricultural Tenancy Bill, 1937, by Khan Bahadur Saiyed Muazzamuddin Hossain, M.L.C., that the Bill be circulated for the purpose of eliciting opinion thereon by the 31st July, 1940.

The Bengal Land Revenue Sales (Amendment) Bill, 1938.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I have the honour to give notice that at the current Session of the Bengal Legislative Council, I shall move by way of amendment to the motion for consideration of the Bengal Land Revenue Sales (Amendment) Bill, 1938, by Khan Bahadur Saiyed Muazzamuddin Hossain, M.L.C., that the Bill be referred to a Select Committee consisting of—

(1) Khan Bahadur Abdul Karim,

(2) Khan Sahib Abdul Hamid Chowdhuri,

(3) Khan Bahadur Saiyed Muazzamuddin Hossain,

(4) Khan Bahadur Naziruddin Ahmed.

(5) Mr. Kader Bux,

(6) Mr. E. C. Ormond:

(7) Raja Bahadur Bhupendra Narayan Sinha, of Nashipur,

(8) Mr. Kamini Kumar Dutta,

(9) Mr. Naresh Mukerjee,

(10) Rai Bahadur Manmatha Nath Bose, and

(11) myself,

with instruction to submit their report by the 31st January, 1940. The number of members whose presence shall be necessary to constitute a quorum shall be five.

Bill for the Bengal Municipal Act, 1932.

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca): Sir, I have the honour to give notice that I desire to move in the Session of the Bengal Legislative Council commencing from the 23rd November, 1939, the following amendment to Mr. Nur Ahmed, M.L.C.'s motion that his Bill for the amendment of the Bengal Municipal Act, 1932, be referred to a Select Committee, viz.—

that the Bill be re-circulated for the purpose of eliciting further opinion thereon by the 31st December, 1940.

Bill for the amendment of the Bengal Local Self-Government Act, 1885.

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca): Sir, I have the honour to give notice that I desire to move in the Session of the Bengal Legislative Council commencing on the 23rd November, 1939, the following amendment to Mr. Humayun Kabir, M.L.C.'s motion that his Bill for the amendment of the Bengal Local Self-Government Act, 1885, be referred to a Select Committee, viz.—

that the Bill be re-circulated for the purpose of eliciting further opinion thereon by the 31st December, 1940.

Bengal Money-lenders Bill, 1939.

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: Sir, I beg to give notice that on the 27th November, 1939, I desire to move that the Bengal Money-lenders Bill, 1939, as passed by the Bengal Legislative Assembly be taken into consideration by the Council. I beg to request the Hon'ble President to permit me to move the motion at shorter notice under rule 77(*1*) of the Bengal Legislative Council Procedure Rules.

I also beg to give notice of certain amendments to the provisions of the Bengal Money-lenders Bill, 1939, which will be taken up for consideration in the present session of the Council. I beg to request that the Hon'ble President may permit me to move these amendments also at shorter notice.

Mr. PRESIDENT: I take it that there will be no objection to suspend Rule 77(*1*) requiring 10 days' notice so that the matter may be taken up on the 27th November next, that is, on Monday. The Hon'ble Minister has asked the permission of the President to suspend the rule under my discretionary power. Any honourable member who has objection may place his views before the Council.

Raja Bahadur BHUPENDRA NARAYAN SINHA, of Nashipur: Sir, this Bill is an important one and we have not got sufficient notice to send in amendments. I think that at least 15 days' time should be given.

Mr. PRESIDENT: I think that there is some misapprehension. At this stage there will be only two amendments: for reference to the Select Committee or for circulation. I think that the hon'ble members need not take more than 3 or 4 days to give notice in connection with such amendments.

Raja Bahadur BHUPENDRA NARAYAN SINHA, of Nashipur: Am I to understand that if the motion for reference to Select Committee or for circulation is not accepted, we could send in amendments at the same time?

Mr. PRESIDENT: If the circulation motion is not accepted, then the next motion will be for reference to Select Committee. If that is not accepted, then the motion for the consideration of the House will be whether the Bill should be taken into consideration. If that is passed, then there will be time given under section 79.

Raja Bahadur BHUPENDRA NARAYAN SINHA, of Nashipur: Sir, in that case there will be no objection. Am I to understand clearly that no amendments need be given by way of amendment to the motion for reference to the Select Committee or for circulation?

Mr. PRESIDENT: There will be no objection to anybody giving any notice of amendment but if the other motion is carried it will be futile to give notice. I will refer the honourable member to rule 80. So, at this stage the only amendment that should be given notice of is about the circulation or reference to the Select Committee, which will be considered with the main motion for consideration on Monday. I accept the suggestion of the Hon'ble Minister that his motion for consideration with any amendment be taken up on Monday. Honourable members will do well to give notice of amendments for reference to the Select Committee of the whole House or for circulation by Friday evening.

Rai Bahadur MANMATHA NATH BOSE: May I know, Sir, inasmuch as the Bill was referred to the Select Committee while before the Assembly, will it be right for us to refer the matter again to a Select Committee?

Mr. PRESIDENT: The honourable member will please read the new rules.

Presidency Small Cause Court (Amendment) Bill, 1938.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I have the honour to give notice that I desire to move the following amendment with regard to the Presidency Small Cause Court (Amendment) Bill, 1938, by Mr. Hamidul Haq Chowdhury.

Amendment.

That the Bill be circulated for the purpose of eliciting opinion thereon by the 1st December, 1940.

Mr. PRESIDENT: Before I adjourn the House I would like to consult the leaders of parties whether 3-30 p.m. for to-morrow's meeting will suit them.

Mr. H. C. A. HUNTER: Yes, it will suit us.

Khan Bahadur M. ABDUL KARIM: Sir, my party would like to have a longer time for discussion of non-official business and has suggested to me to request you to fix 2-15 p.m. to-morrow for commencement of business. That is the opinion of my party.

Mr. HAMIDUL HUQ CHOWDHURY: The party has not been consulted.

Khan Bahadur M. ABDUL KARIM: But that is the decision of my party.

Mr. PRESIDENT: So far as time is concerned, the Chair will be agreeable to sit for any longer period. Even if we sit at 3-30, we can continue till 8 if the House so desire. What time will suit you, Mr. Dutta?

Mr. KAMINI KUMAR DUTTA: I think, Sir, that when there is some sort of desire on the part of the members of the House to have a little longer time, let the time be fixed at 3. This is winter and it will not be convenient to sit for a longer period at night.

Mr. PRESIDENT: Now there is a further suggestion of fixing the time at 3 to-morrow. Mr. Hunter, are you agreeable to this?

Mr. H. C. A. HUNTER: Yes, Sir.

Raja Bahadur BHUPENDRA NARAYAN SINHA, of Nashipur: 3 p.m. will suit us also.

Adjournment.

The Council then adjourned till 3-0 p.m. on Friday, the 24th November, 1939.

Members Absent:

The following members were absent from the meeting held on the 23rd of November, 1939:—

(1) Mr. Nur Ahmed,
(2) Rai Keshab Chandra Banerjee Bahadur,
(3) Khan Bahadur Saiyed Muhammad Ghaziul Hu
(4) Dr. Radha Kumud Mookerjee,
(5) Khan Bahadur Kazi Abdur Rashid,
(6) Mr. J. B. Ross,
(7) Rai Saheb Jatindra Mohan Sen.

B. G. Press—1939-40—9965A—750.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Friday, the 24th November, 1939, at 3 p.m., being the second day of the Third Session, pursuant to section 62(2)(a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Visit of Dr. Shyama Prosad Mukharji, M.L.A., to Comilla.

6. **Mr. RANAJIT PAL CHOUDHURY (on behalf of Mr. Lalit Chandra Das):** (a) Will the Hon'ble Minister in charge of the Home Department be pleased to state whether it is a fact that one Kala Meah of *mahalla* Bishnupur in town Comilla falsely gave out on the morning hours of 25th September by beat of drum that some Moslem students were killed during the visit of Dr. Syamaprasad Mukharjee, M.L.A., ex-Vice-Chancellor of the Calcutta University, to the Comilla College?

(b) If so, was he arrested and prosecuted?

(c) Did the said Kala Meah give out the name of any one at whose instance he so announced by beat of drum? If so, what is the name of that person and was any action taken against him? If not, why not?

(d) Is it a fact that Kala Meah, named above, is a League volunteer and the person at whose instance drum was beat was an office-bearer of the Moslem League Party in Comilla?

(e) Did not such action give rise to a threatened riot in Comilla between the Hindus and the Muslims? Is Government aware that the law-abiding people of both communities passed their days in fright of an imminent breach of peace? Will Government be pleased to state what action was taken against the wrong-doers and the aggressors?

MINISTER in charge of the HOME DEPARTMENT (The Hon'ble Khwaja Sir Nazimuddin): (a) No. Kala Meah gave out by beat of drum that some Muslim students had been disabled by the police in front of the local college.

(b) He was arrested under section 151 Criminal Procedure Code, but proceedings against him were dropped.

(c) He named one "Lil Meah" whose real name is Zahurul Huq. No action was taken against "Lil Meah" as he denied having instigated the announcement and although the police endeavoured to obtain corroboration, none was forthcoming.

(*d*) There is no information to show that Kala Meah is a volunteer of any League. "Lil Meah" is not an office-bearer of any affiliated branch of the Muslim League.

(*e*) No. It is not true that there was fear of an imminent breach of peace. Does not arise.

Promotions from the Junior Bengal Civil Service.

7. **Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN:** Will the Hon'ble Minister in charge of the Home Department kindly lay on the table a statement showing—

(*a*) the number of promotions made from Junior Bengal Civil Service to Senior Service during each of the last 5 years;

(*b*) how many of these promotions went to employees belonging to the Muslim community each year;

(*c*) whether the percentage of promotions to Muslims was less than 45 per cent. in any year, and, if so, what was the reason; and

(*d*) whether the character rolls of senior Muslim officers were examined to find out if there were any candidate deserving of promotion, though not nominated?

The Hon'ble Khwaja Sir NAZIMUDDIN: A statement is laid on the table.

Statement referred to in the reply to question No. 7.

	1934.*	1936.*	Remarks.
(*a*)	11	20	....
(*b*)	1	5	....
(*c*)	Yes ..	Yes ..	The reason is that the policy of Government in the years concerned was, as now that considerations of communal proportions are not taken into account in the case of promotions.
(*d*)	No ..	No ..	The practice was and is to consider for promotion only officers recommended by the Selection Committee or (under the present constitution) the Public Service Commission from amongst those nominated by officers under whom they are serving and who have personal knowledge of their suitability.

* *Note.*—There were no promotions in 1935, 1937 and 1938.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: With reference to answer (*d*), will the Hon'ble Minister be pleased to state whether, if the whole history of the services is not examined and if it is confined only to nominations of the Public Service Commissioners, it is not likely to prejudice many officers who are not in touch with the Commissioners and also whether it is not likely that the Commissioners are influenced by personal likes and dislikes?

The Hon'ble Khwaja Sir NAZIMUDDIN: It is not possible to go through the whole list every time nominations are made. The usual form of nomination is through the heads of departments. District Magistrates send up the names of nominees and these are checked by the Commissioners themselves. It is not a question of one person alone; there are both the District Magistrate and the Commissioners.

Release of political prisoners.

8. **Mr. LALIT CHANDRA DAS:** (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state how many convicted political prisoners are still in jails? What are their names and to what class or groups of cases do they belong?

(*b*) Is it a fact that Sj. Nani Gopal Das Gupta and others, 25 in all, were ordered to be released by the Government on the 26th September, 1939, on condition that they should state that they had abjured the cult of terrorism and should undertake further that they would have nothing to do with terrorism or acts of violence with a political motive?

(*c*) Is it a fact that the Government intend to pass similar orders in the case of some other political prisoners also?

(*d*) Is it a fact that the prisoners referred to in part (*b*) already gave their word of honour to Mahatma Gandhi that they abjured violence and would not in future resort to it nor have anything to do with it and would work on non-violent lines and that they said so also to the Advisory Committee? Is it not also a fact that the other remaining prisoners made similar statements?

(*e*) If the answer to part (*d*) is in the affirmative, does the Government propose to accept their undertaking to Mahatmaji as sufficient?

(*f*) Does the Government propose to release forthwith and without condition all the remaining political prisoners who are still in jail? If not, why not?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) A statement regarding the 87 Bengal terrorists is laid on the table.

(*b*) Yes. The hon'ble member is referred to the Press note, dated the 3rd October, 1939, a copy of which is laid on the table.

(c) The hon'ble member is referred to the Press notes, dated the 14th, 16th, 17th and 18th October, 1939, copies of which are laid on the table. The case of one prisoner is still under the consideration of Government.

(d) Government are not aware of the details of the conversations between Mr. Gandhi and these prisoners or of the terms of individual assurances, if any, given by them to him. Eleven of the prisoners referred to in part (b) told the Advisory Committee that they no longer believed in violence and 26 others still in jail interviewed by the Committee made similar statements.

(e) Does not arise.

(f) No. Government's policy in this matter is explained in the resolution, dated the 13th November, 1939, a copy of which is laid on the table.

Statements referred to in the reply to clause (a) of question No. 8.

TERRORIST PRISONERS.

(1) Ambica Charan Chakravarty—Chittagong Armoury Raid Case. Was also convicted in the Inter-Provincial Conspiracy case.

(2) Ananda Prosad Gupta—Chittagong Armoury Raid Case.

(3) Ananta Lal Singh—Chittagong Armoury Raid Case.

(4) Ganesh Ghosh—Chittagong Armoury Raid Case.

(5) Lal Mohan Sen—Chittagong Armoury Raid Case.

(6) Loke Nath Baul—Chittagong Armoury Raid Case.

(7) Sahairam Das—Chittagong Armoury Raid Case.

(8) Subodh Kumar Chaudhury—Chittagong Armoury Raid Case.

(9) Sukhendu Bikas Dastidar—Chittagong Armoury Raid Case.

(10) Sunil Kumar Chatterjee—Sir Alfred Watson Shooting case.

(11) Promode Ranjan Bose—Sir Alfred Watson Shooting case.

(12) Suresh Chandra Das—Armenian Street Dacoity case.

(13) Narendra Prosad Ghosh—Inter-Provincial Conspiracy Case.

(14) Amulya Chandra Sen Gupta—Inter-Provincial Conspiracy Case.

(15) Prabhat Kumar Mitra—Inter-Provincial Conspiracy Case.

(16) Paresh Chandra Guha—Inter-Provincial Conspiracy Case.

(17) Satyendra Narayan Mazumdar—Inter-Provincial Conspiracy Case.

(18) Surendra Dhar Choudhury—Inter-Provincial Conspiracy Case.

(19) Deba Prosad Sen Gupta—Inter-Provincial Conspiracy Case. Was also convicted in Tittagarh Conspiracy case.

(20) Jyotish Chandra Mazumdar—Inter-Provincial Conspiracy Case.

(21) Prabhat Chandra Chakravarty—Inter-Provincial Conspiracy Case.

(22) Jatindra Nath Chakravarty—Inter-Provincial Conspiracy Case.

(23) Purnananda Das Gupta—Inter-Provincial Conspiracy Case. Was also convicted in Tittagarh Conspiracy Case.

(24) Bimal Bhattacharji—Inter-Provincial Conspiracy Case.

(25) Sitanath De—Inter-Provincial Conspiracy Case.

(26) Dwijendra Nath Talapatra—Inter-Provincial Conspiracy Case.

(27) Jitendra Nath Gupta—Inter-Provincial Conspiracy Case.

(28) Haripada Dey—Inter-Provincial Conspiracy Case.

(29) Shyam Benode Pal—Tittagarh Conspiracy case.

(30) Niranjan Ghoshal—Tittagarh Conspiracy case.

(31) Jiban Krishna Dhupi—Tittagarh Conspiracy case.

(32) Prafulla Kumar Sen—Tittagarh Conspiracy case.

(33) Santi Ranjan Sen—Tittagarh Conspiracy case.

(34) Hrishikesh Bhattacharyya—Hili Dacoity case.

(35) Prankrishna Chakravarty—Hili Dacoity case.

(36) Prafulla Narayan Sanyal—Hili Dacoity case.

(37) Saroj Kumar Bose—Hili Dacoity case.

(38) Satyabrata Chakravarty—Hili Dacoity case.

(39) Kalipada Chakravarty—Police Inspector (Tarini Charan Mukharji) Murder case.

(40) Amulya Kumar Roy—Murder of a suspected police informer.

(41) Benoy Bhusan Dey Roy—Grassby Shooting case.

(42) Biraj Mohan Deb—Malia Shooting case and Itakhola (in Assam) Mail Dacoity case.

(43) Haripada Bhattacharyya—Khan Bahadur Ahsanulla (Inspector of Police, Chittagong) Murder case.

(44) Jagadananda Mukharji—Cornwallis Street (Police Officer) Shooting case.

(45) Nalini Mohan Das—Cornwallis Street (Police Officer) Shooting case.

(46) Amulya Acharyya—Attempted to murder a suspected police spy.

(47) Amulya Bhusan Chaudhuri—Ghangore U. B. clerk murder case.

(48) Ashutosh Bharadwaj—Ghangore U. B. clerk murder case.

(49) Sudhir Kumar Chakravarty—Makuhati (Dacca) Dacoity case.

(50) Bimal Kumar Das Gupta—Villiers Shooting case.

(51) Haribar Datta—Bathua Dacoity case.

(52) Monmohan Saha—Bathua Dacoity case.

(53) Mokshada Ranjan Chakravarty—Bathua Dacoity case.

(54) Priyada Ranjan Chakravarty—Bathua Dacoity case.

(55) Pran Gopal Mukharji—Birbhum Conspiracy case.

(56) Rajat Bhusan Datta—Birbhum Conspiracy case.

(57) Sibapriya Bose—Dacca town Robbery case.

(58) Gour Chandra Saha Das—Dacca town Robbery case.

(59) Sambhu Nath Sutradhar—Dacca town Robbery case.

(60) Sachindra Lal Kar Gupta—Mechuabazar Conspiracy and Arms Act case.

(61) Madhu Sudan Banerjee—Lebong Race Course Outrage (Governor Shooting) case.

(62) Monoranjan Banerji—Lebong Race Course Outrage (Governor Shooting) case.

(63) Sukumar Ghosh *alias* Lonta—Lebong Race Course Outrage (Governor Shooting) case.

(64) Radhaballav Gope—Arms Act and Explosive Substances Act cases.

(65) Himanshu Bhowmick *alias* Raja—Feni Police Search Party Shooting case.

(66) Jageswar Das—Angaria (Faridpur) Mail Robbery case.

(67) Manindra Lal Dutta—Arms Act case.

(68) Kali Kinkar De—Arms Act case.

(69) Nani Gopal Das Gupta—Singha (Bakarganj) Dacoity (with murder) case.

(70) Sarat Chandra Dhupi—Kunhati (Mymensingh) Dacoity (with murder) case.

(71) Kumud Behari Mukherjee—Kurigram Train Robbery case.

(72) Dinesh Chandra Das—Kakna and Tilni (Dinajpur) Dacoity cases.

(73) Narendra Chandra Ghosh—Kakna and Tilni (Dinajpur) Dacoity cases.

(74) Kamakhya Charan Ghose—Burge Murder case.

(75) Sukumar Sen Gupta—Burge Murder case.

(76) Santi Gopal Sen—Burge Murder case.

(77) Ham Chandra Bakshi—Naidanga Dacoity case.

(78) Ramesh Chandra Chatterjee—Police Sub-Inspector (Jyotish Roy) Murder case.

(79) Purnendu Sekhar Guha—Arms Act, Cycle Stealing and Wander Assault cases.

(80) Tejendra Lal Sen—Arms Act case.

(81) Surendra Mohan Kar Roy—Charmaguria Mail Robbery case.

CIVIL DISOBEDIENCE PRISONERS.

(82) Benode Behari Bera—Daspur Murder case.

(83) Surendra Nath Bag—Daspur Murder case.

(84) Bhutnath Manna—Daspur Murder case.

(85) Karan Behari Goswami—Daspur Murder case.

(86) Sital Bhattacharya—Daspur Murder case.

(87) Jogendra Nath Hazra—Daspur Murder case.

PRESS NOTE, DATED THE 3RD OCTOBER, 1939.

Orders were issued on the 26th September, 1939, for the release of the following terrorist prisoners on condition that they stated on their word of honour that they had abandoned terrorism and undertook that they would not in future resort to terrorism or acts of violence with a political motive, and that they would not join, remain members of, or support any party or organisation which employs or instigates terrorism and acts of violence for political ends. The condition will remain in force for varying periods but in no case does the period exceed five years:—

(1) Nani Gopal Das Gupta.

(2) Pramode Ranjan Bose.

(3) Sarat Chandra Dhupi.

(4) Bimal Chandra Bhattacharjee.

(5) Jatindra Nath Chakrabarti.

(6) Paresh Chandra Guha.

(7) Jiban Krishna Dhupi.

(8) Tajendra Lal Sen.

(9) Prafulla Narayan Sanyal.

(10) Saraj Kumar Bose.

(11) Surendra Dhar Chaudhury.

(12) Dwijendra Nath Talapatra.

(13) Surendra Mohan Kar Roy.

(14) Kali Kinkar De.

(15) Kamud Behari Mukherji.

(16) Dinesh Chandra Das.
(17) Jyotish Chandra Mazumdar.
(18) Ramesh Chandra Chatterjee.
(19) Priyada Ranjan Chakrabatti.
(20) Rajat Bhusan Datta.
(21) Kamakshya Charan Ghose.
(22) Sukumar Sen Gupta.
(23) Santi Gopal Sen.
(24) Hem Chandra Bakshi.
(25) Purnendu Sekhar Guha.

Government have been informed that all these prisoners have refused to accept the condition stated above. It has, therefore, not been possible to give effect to the release orders.

Orders for the release, on condition, of another batch of prisoners are now under preparation and will be issued very shortly.

Government regret that owing to the outbreak of war they have not yet been able to conclude their examination of the remaining cases. They hope, however, to be able to pass final orders in all cases before the Puja Holidays.

PRESS NOTE, DATED THE 14TH OCTOBER, 1939.

Having considered the individual cases of the undermentioned terrorist convicts together with the recommendations of the Advisory Committee, the Government of Bengal have ordered them to be released:—

(1) Saradindu Bhattacharya.
(2) Susil Kumar Dey.
(3) Dhirendra Nath Bhattacharya.
(4) Manindra Lal Dutta.
(5) Santi Ranjan Sen.
(6) Haripada Dey.
(7) Surendra Nath Sarkhel.

Government are informed that of the last four prisoners who were required to state that they had abandoned terrorism and would not in future resort to terrorism or acts of violence with a political motive, three have refused to give the required undertaking. It has, therefore, not been possible to give effect to the release orders in their cases. The remaining four prisoners have been released.

PRESS NOTE, DATED THE 16TH OCTOBER, 1939.

Having considered the individual cases of the undermentioned terrorist convicts, together with the recommendations of the Advisory Committee, the Government of Bengal have decided that their release at this stage cannot be justified. They have, however, ordered that they should be granted special remission to the extent stated in column 3 below :—

Names.	Aggregate sentences.	Remission.
1. Madhu Sudan Banerjee.	Rigorous imprisonment for 14 years under sections 120B/302, Indian Penal Code.	4 years.
2. Sukumar Ghosh *alias* Lonta.	Rigorous imprisonment for 14 years under sections 120B/302, Indian Penal Code.	Ditto.
3. Radhaballav Gope ..	Rigorous imprisonment for 14 years under sections 19(*f*) and 20 of the Arms Act and 4 and 5 of the Explosive Substances Act.	Ditto.
4. Prafulla Kumar Sen	Rigorous imprisonment for 15 years under sections 121A, Indian Penal Code, and 6(3) of the Bengal Criminal Law Amendment Act.	3 years.
5. Himanshu Bhowmick *alias* Raja.	Transportation for life (rigorous imprisonment for 20 years) under sections 307, Indian Penal Code, 19(*e*) and (*f*) and 20A of the Arms Act and 6(3) of the Bengal Criminal Law Amendment Act.	To be released on expiry of 10 years of his sentence.
6. Jageswar Das ..	Transportation for life (rigorous imprisonment for 20 years) under sections 394 and 326, Indian Penal Code and 19(*f*) of the Arms Act.	Ditto.
7. Niranjan Ghosal ..	Rigorous imprisonment for 14½ years under sections 121A and 353/114, Indian Penal Code.	7 years.

PRESS NOTE, DATED THE 17TH OCTOBER, 1939.

The Government of Bengal have considered the individual cases of the following 34 terrorist and 6 civil disobedience prisoners together with the recommendations of the Advisory Committee, and have decided that no clemency can be shown to them. The expediency of releasing prematurely such of these prisoners as have sentences of more than 14 years will be considered under the 14 years' rule in the normal course:—

	Name.	Sentences.	Brief particulars of offences.
1.	Ananda Prosad Gupta.	Transportation for life under sections 120B/302/395/396 and 436, Indian Penal Code, 126 Indian Railway Act, 25, Indian Telegraph Act, 19(*f*), Arms Act, and 4(*b*) Explosive Substances Act.	Collection of arms, ammunition, bombs and explosives; commission of murder, dacoity and arson; destruction of telegraphic, telephonic and Railway communications and attacks on the Volunteer Force and Police Armouries. The prisoner was responsible for the murder of 12 persons and the wounding of six.
2.	Ananta Lal Singh	Ditto ..	Ditto.
3.	Ganesh Ghosh ..	Ditto ..	Ditto.
4.	Lal Mohan Sen ..	Ditto ..	Ditto.
5.	Loke Nath Baul	Ditto ..	Ditto.
6.	Sahairam Das ..	Ditto ..	Ditto.
7.	Subodh Kumar Chaudhury.	Ditto ..	Ditto.
8.	Sukhendu Bikas Dastidar.	Ditto ..	Ditto.
9.	Manoranjan Banerjee *alias* Naresh Chaudhury.	Transportation for life under sections 109/307, Indian Penal Code, and 120B/302, Indian Penal Code, and 19 of the Arms Act.	Took an active part in the conspiracy to murder His Excellency the Governor at Lebong in 1934, and procured the arms and ammunition used by the prospective assassins.

	Name.	Sentences.	Brief particulars of offences.
10.	Sunil Kumar Chatterjee.	Transportation for life under sections 120B/302 and 212, Indian Penal Code, and 109/307, Indian Penal Code.	Organised the two attempts on the life of Sir Alfred Watson in 1932.
11.	Suresh Chandra Das.	Transportation for life under sections 394, 302/34 and 324, Indian Penal Code.	The prisoner and 3 others armed with revolvers and daggers entered the *gadi* of a merchant in Armenian Street and robbed him of Rs. 2,346-2; on being pursued they shot and killed a *darwan* and later stabbed a constable.
12.	Narendra Prosad Ghosh.	Rigorous imprisonment for 16 years under sections 121A and 120B/395, Indian Penal Code.	Conspired to bring about an armed rising and wage war against the King; took part in the Chhowali Charpara Dacoity in Mymensingh in which the participants carried revolvers and pistols and posed as police officers.
13.	Prabhat Kumar Mitra.	Rigorous imprisonment for 7 years under section 121A, Indian Penal Code.	Conspired to bring about an armed rising and wage war against the King.
14.	Satyendra Narain Mazumdar.	Ditto.	Ditto.
15.	Deba Prosad Sen Gupta.	Rigorous imprisonment for 8 years under section 121A, Indian Penal Code.	Ditto.
16.	Prabhat Chandra Chakrabarty.	Transportation for life under section 121A, Indian Penal Code, and rigorous imprisonment for 5 years under sections 19A and 19(*f*) of the Arms Act.	Conspired to bring about an armed rising and wage war against the King. (One of the leaders in the conspiracy.)

Name.	Sentences.	Brief particulars of offences.
17. Purnananda Das Gupta.	Rigorous imprisonment for 14 years under section 121A, Indian Penal Code (Inter-Provincial Conspiracy case), rigorous imprisonment for 18 months under sections 353/114, Indian Penal Code, and transportation for life under section 121A, Indian Penal Code. (Tittagarh Conspiracy case.)	Conspired to bring about an armed rising and wage war against the King. (While under trial in the Inter-Provincial Conspiracy case escaped from Jail and took a leading part in the Tittagarh Conspiracy.)
18. Shyam Benode Pal Chaudhury.	Rigorous imprisonment for 10 years under section 121A, Indian Penal Code.	Conspired to bring about an armed rising and wage war against the King. (Had arms and explosives in his possession when arrested.)
19. Sitanath De *alias* Brahmachari.	Transportation for life under section 121A, Indian Penal Code.	Conspired to bring about an armed rising and wage war against the King. (Escaped from jail while under trial but was re-arrested and convicted.)
20. Jitendra Nath Gupta.	Ditto ..	Conspired to bring about an armed rising and wage war against the King. (One of the leaders in the conspiracy.)
21. Hrishikesh Bhattacharya.	Transportation for life under sections 395 and 120B/396, Indian Penal Code.	Took part in the Hili armed mail dacoity case in the course of which telephones and telegraphs were dislocated and the prisoners resorted to indiscriminate firing killing a mail peon and injuring several others.

Name.	Sentences.	Brief particulars of offences.
22. Prankrishna Chakraborty.	Rigorous imprisonment for 7 years under section 120B, Indian Penal Code, and sections 19(*f*) and 20 of the Arms Act and transportation for life under sections 395 and 120B/396, Indian Penal Code.	Took part in the Hili armed mail dacoity case in the course of which telephones and telegraphs were dislocated and the prisoners resorted to indiscriminate firing, killing a mail peon and injuring several others. (Was sentenced to 7 years' rigorous imprisonment on the 2nd December, 1932, for being in possession of a loaded pistol, and a six-chambered revolver and some cartridges.)
23. Kalipada Chakravarty.	Transportation for life under sections 302, Indian Penal Code, and 19(*f*) of the Arms Act.	Murdered Inspector Tarini Charan Mukherjee at Chandpur Railway Station during an attempt on the life of the Inspector-General of Police.
24. [illegible] Kumar Roy.	Transportation for life under sections 302/34, Indian Penal Code.	Murdered an associate suspected of being a police spy by stabbing him in the back.
25. Benoy Bhusan Dey Roy.	Transportation for life under sections 307, Indian Penal Code and 19(*f*) of the Arms Act.	Fired at and wounded Mr. C. G. Grassby, the then Additional Superintendent of Police at Dacca.
26. Biraj Mohan Deb	Transportation for life under sections 307, 120B/302, Indian Penal Code, and transportation for life under section 396, Indian Penal Code.	Shot at and seriously wounded Abdul Khalique *alias* Mali of Kalikatcha suspecting him to be a police spy. Took part in the Armed Mail Dacoity at Itaklfola (Sylhet) on 13th March, 1933. Shot at and killed one villager and wounded two others.
27. Haripada Bhattacharya.	Transportation for life under sections 302, Indian Penal Code, and 19(*f*) of the Arms Act.	Shot and killed Police Inspector, Khan Bahadur Ahsanulla on the Nizam Paltan football ground at Chittagong.

	Name.	Sentences.	Brief particulars of offences.
28.	Jagadananda Mukherjee.	Transportation for life under sections 307 and 34, Indian Penal Code, read with section 6(*1*) of the Bengal Criminal Law Amendment Act.	Fired at the police and wounded a police officer when his house in Cornwallis Street was raided.
29.	Nalini Mohan Das	Ditto	Fired at the police during the above raid and narrowly missed a police officer.
30.	Amulya Acharya	Rigorous imprisonment for 10 years under sections 307, 326/34, Indian Penal Code.	Attempted to murder an associate who was suspected of being a police spy.
31.	Amulya Bhusan Chaudhuri.	Transportation for life under sections 302/34, Indian Penal Code.	Attacked and fatally stabbed a union board clerk who was suspected to be a police spy.
32.	Ashutosh Bharadwaj.	Ditto ..	Ditto.
33.	Sudhir Kumar Chakrabarty.	Rigorous imprisonment for 5 years under section 395, Indian Penal Code.	Took part in an armed dacoity at Mekuhati (Dacca) in the course of which the inmates of the house were assulted and ornaments were snatched away from the womenfolk. In all a sum of Rs. 1,888 was stolen.
34.	Bimal Kumar Das Gupta.	Rigorous imprisonment for 10 years under section 307, Indian Penal Code.	Fired at and wounded Mr. Villiers in an attempt to murder him.
35.	Benode Behari Bera.	Transportation for life under sections 302/34, Indian Penal Code.	This person is a civil disobedience prisoner. He took part in the murder of Bholanath Ghosh, a sub-inspector of police, during the salt making campaign at Chechua *hat* in Midnapore in 1930. The sub-inspector was beaten to death and his body was thrown into the river

Name.	Sentences.	Brief particulars of offences.
35. Benode Behari Bera—*concld.*	Transportation for life under sections 302, 34, Indian Penal Code.—*concld.*	Kangshabati. Another sub-inspector of police (Aniruddha Samanta) was at the same time dragged to a village about 2 miles away and was never heard of again. A dead body was, however, found in a tank in that village on the next day, but as it had been eaten by dogs and vultures it could not be identified.
36. Surendra Nath Bag.	Ditto ..	Ditto.
37. Bhutnath Manna	Ditto ..	Ditto.
38. Kanan Behari Goswami.	Ditto ..	Ditto.
39. Sital Bhattacharya.	Ditto ..	Ditto.
40. Jogendra Nath Hazra.	Ditto ..	Ditto.

Government have now completed their examination of all the cases of terrorist and civil disobedience prisoners which were placed before the Advisory Committee. 149 prisoners have been released unconditionally, 43 have been released or offered their release on conditions, 7 have been granted substantial remission, and in 40 cases clemency has been refused. These figures compare very favourably with the recommendations of the Advisory Committee which were that 146 prisoners should be released unconditionally, and 33 conditionally, that remission should be granted in 15 cases and that clemency should be refused in 45 cases. A further communiqué dealing with the work of the Advisory Committee will issue in the near future.

PRESS NOTE, DATED THE 18TH OCTOBER, 1939.

After considering the individual cases of the following terrorist prisoners and the recommendations of the Advisory Committee, the Government of Bengal issued orders on the 7th October for their release on condition that they stated on their word of honour that they had abandoned terrorism and undertook that they would not in future resort to terrorism or acts of violence with a political motive, and that they

would not join, remain a member of or support any party or organisation which employs or instigates terrorism and acts of violence for political ends:—

(1) Harihar Dutta.
(2) Monmohan Saha.
(3) Amullya Charan Sen Gupta.
(4) Pran Gopal Mukherjee.
(5) Sibapriya Bose.
(6) Sambhu Sutradhar.
(7) Gour Chandra Saha Das.
(8) Sachindra Lal Kar Gupta.

Government are informed that all these prisoners have refused to accept the condition. It has, therefore, not been possible to give effect to the release orders.

PRESS NOTE, DATED THE 18TH OCTOBER, 1939.

After considering the individual cases of the undermentioned terrorist prisoners together with the recommendations of the Advisory Committee, the Government of Bengal issued orders on the 7th October that they should be released on conditions. As the prisoners have refused to accept the conditions, the release orders have been held in abeyance:—

(1) Mokshada Chakrabarty.
(2) Satyabrata Chakrabarty.
(3) Narendra Chandra Ghose.

PRESS NOTE, DATED THE 14TH NOVEMBER, 1939.

The following resolution, dated the 13th November, 1939, of the Government of Bengal is issued for publication:—

When the present Ministry assumed office there were undergoing sentences of imprisonment 457 persons who had been convicted by courts in Bengal of specific crimes committed in this province in furtherance of the terrorist movement. Of these there are now in custody only 87.

2. Even before the issue of the Press Communique of 22nd November, 1937, in which Government's intention to release certain classes of convicts was announced, Government had already prematurely released 54 terrorist prisoners on compassionate grounds and another 13 with a view to relieving congestion in the jails.

3. A further announcement of Government's policy was made in the Bengal Legislative Council on the 22nd February, 1938, in accordance with which a communique was issued by Government on the 25th September, 1938. In this communique Government made it clear that they could not contemplate any general or indiscriminate remission of sentences, but stated that after prolonged and anxious thought they had decided to exercise a reasoned clemency based on a careful scrutiny of individual cases. They accordingly announced their intention: (1) to release forthwith terrorist convicts suffering from serious and continued illness; (2) to release as soon as possible those convicts who had not been convicted of offences involving the actual commission of murder and serious violence and who had still to serve a comparatively short period of their sentences, not in excess of 18 months; and (3) to place the cases of the remaining convicts before an Advisory Committee which would examine them on the individual merits and make such recommendations as they thought fit, the final decision in each case to rest with Government. At no time did Government give any undertaking that all releases would be unconditional or that clemency would be shown in all cases and it is sufficiently clear from their communiques of the 25th September, 1938, and the 7th July, 1939, that this was never their intention.

4. Government began to give effect to the decisions announced in their communique of the 25th September, 1938, on 29th September, 1938, and by the 17th February, 1939, they had released, in accordance with decisions (1) and (2), 57 terrorist prisoners of whom 55 were set at liberty unconditionally.

5. The Advisory Committee contemplated in decision (3) was appointed by a resolution No. 4624H.J., dated the 15th December, 1938, to examine the remaining cases. The Committee consisted of (1) Rai Surendra Nath Guha Bahadur, formerly a Judge of the High Court, Calcutta, President, and (2) Khan Bahadur A. M. L. Rahman, M.L.A., (3) Mr. Sarat Chandra Bose, M.L.A., (4) Mr. Birat Chandra Mandal, M.L.A., (5) Maharajkumar Uday Chand Mahtab, M.L.A., (6) Mr. Lalit Chandra Das, M.L.C., (7) Mr. Curtis Miller, M.L.A., (8) Maulvi Syed Abdul Majid, M.L.A., and (9) Mr. J. R. Blair, C.I.E., I.C.S., Member.

6. The Advisory Committee assembled on the 4th January, 1939, and continued their work uninterrupted until the 14th May, 1939. On this date Mr. Sarat Chandra Bose, M.L.A., and Mr. Lalit Chandra Das, M.L.C. (representing the Congress Party), resigned as they were unable to persuade the other members of the Committee to agree to the immediate and unconditional release of every prisoner whose case was placed before them. The Congress Party were invited to nominate other representatives in their place but declined to do so and the Committee thereupon resumed their labours. By

the 7th July, 1939, 146 prisoners had been released unconditionally in accordance with their recommendation. On that date certain terrorist prisoners went on hunger-strike in an attempt to secure the "immediate and unconditional release of all political prisoners and the restoration of civil liberties". This constituted an open threat to Government and was calculated to produce an atmosphere favourable to the recrudescence of violence and terrorism. Government accordingly suspended further consideration of the cases pending before them and directed the Committee to do likewise until the atmosphere had been restored to normal. The hunger-strike ended unconditionally on the 3rd August, 1939, and Government and the Committee then again resumed their examination of the remaining cases. The Committee concluded their labours on the 17th August, and Government announced the last of the decisions taken by them on the recommendations submitted by the Advisory Committee in a communique, dated the 17th October, 1939.

7. In examining the cases of the prisoners referred to them, the Committee have reported that whilst they followed the policy enunciated by Government, particularly in the communique, dated the 25th September, 1938, they were also guided by certain additional considerations. There were: the seriousness of the crime committed; the degree of violence used; the age of the prisoner; the extent to which he could be said to have been a tool in the hands of more mature and unscrupulous minds and for any reason not in a position to judge the full significance of his acts; whether there was at any stage any indication of regret; and whether the sentence passed in any case was "abnormal" or was particularly severe because intended as a deterrent in the circumstances existing when it was awarded. The Committee gave their earnest attention to what proportion of the sentence passed could be remitted by way of mitigation "without too much violence to the ordinary conception of punishments proportionate to the crime committed". They also considered whether any particular case called for any assurance from the prisoner as to his future conduct or the imposition of condition by Government. The state of health of prisoners and their conduct in prison were also considered. The Committee have reported that their recommendations are based "on some or other or all of the above considerations in their different aspects as to the circumstances required".

8. Of the 457 terrorist prisoners in jail when the Ministry took office, there had already been prematurely released before the Advisory Committee began its work 124, as indicated in paragraphs 2 and 4 above, of whom 112 had been liberated unconditionally. A further 84 whose terms of imprisonment had meantime expired had also already been set at liberty. The number of cases placed before the Advisory Committee was consequently 249. Of these, however, ten prisoners were released in the normal course before their cases had been finally

disposed of. The recommendations of the Advisory Committee in the remaining 239 cases and Government's decisions upon them are summarised below:—

	ommendations of the Advisory Committee.	Decisions of Government.
Unconditional release ..	146	149
Conditional release ..	33	43
Grant of remission ..	15	7
No clemency	45	40

9. Including prisoners prematurely released before the appointment of the Advisory Committee, the total number of convicts released or offered release before the expiry of their sentences is 316 of whom 261 or more than 70 per cent. were released unconditionally. Of the remaining 55 prisoners 15 have accepted conditions and been set at liberty. This number includes 12 released before the Advisory Committee was appointed. The remaining 40 prisoners are still in jail; Government are not prepared to dispense with the conditions in their cases, but are issuing orders that they may be released at any time on accepting the conditions prescribed by Government. Clemency was refused altogether in only 40 cases or less than 9 per cent. of the total number of prisoners involved. Only in 23 cases did Government find it necessary to deviate from the recommendations of the Advisory Committee and in 19 of these cases the deviation was in favour of the prisoners.

10. The members of the Committee visited the Alipore Central Jail and the Presidency Jail and interviewed a very large number of prisoners. In all they held 26 meetings, and they reported on each case individually. Government have been impressed by the meticulous care and attention to detail with which the Committee performed their task. They are greatly indebted to Raj Surendra Nath Guha Bahadur, President and to the members of the Committee for their assistance and are glad to take this opportunity of placing on record their appreciation of the valuable services rendered by them. Government have also noted with satisfaction the acknowledgment by the Committee of the services of Rai Sahib Bhabesh Chandra Ray, who acted as Secretary to the Committee and of Babu Dhirendra Nath Gupta, Head Assistant of the Home Department.

Mr. LALIT CHANDA DAS: With reference to answer (*d*) in which it is stated that eleven of the prisoners referred to in part (*b*) told the Advisory Committtee that they no longer believed in violence, will the Hon'ble Minister be pleased to state if there is any difficulty in the way of the Government in releasing them?

The Hon'ble Khwaja Sir NAZIMUDDIN: I have already stated that the policy of release is based on what has been announced from time to time in the Legislative Assembly and the Council and in the resolution that has been published and I have nothing further to add.

Mr. LALIT CHANDRA DAS: In view of the fact that these eleven prisoners actually abjured violence, is Government prepared to modify that policy?

The Hon'ble Khwaja Sir NAZIMUDDIN: Government have never accepted the proposition that merely abjuring of violence entitles a prisoner to release.

Industrial Development in Bengal.

9. Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister in charge of the Industries Department be pleased to state—

(*a*) if his attention has been drawn to the fact that the War in Europe has brought into prominent relief this country's industrial helplessness and backwardness;

(*b*) if the Government of Bengal intends to take any initiative in the matter of industrial development during the present crisis;

(*c*) if the Government intends to frame a development scheme for important industries in the immediate future;

(*d*) if the Government intends to appoint a Committee representing the Government, the industrialists, and the Science Departments of the University of Calcutta for the purpose of framing a scheme for the development of important industries;

(*e*) if the Government intends to launch a campaign for industrialisation of Bengal and, if so, what steps does the Government intend to adopt in this direction;

(*f*) if the attention of the Government has been directed to the recommendations of the Indian Industrial Commission for Industrial development and also to the investigations carried on by the Bengal Industrial Survey Committee;

(*g*) if the Government has devised ways and means for harnessing the results of those researches to the needs of the industry; and

(*h*) if the Government has framed any scheme for the industrialisation of Bengal at this opportune time?

The Hon'ble Mr. NALINI RANJAN SARKER (on behalf of the Hon'ble Nawab Khawaja Habibullah Bahadur of Dacca): (*a*) I am fully conscious of the present condition of the industries of the province and also that the war in Europe has accentuated the need for improvement of the same.

(*b*) to (*h*) Government have already taken the initiative in the matter of industrial development and have set up the Bengal Industrial Survey Committee composed of eminent men in commercial and industrial circles to investigate that problem and make recommendations. The terms of reference to that Committee include a direction to advise on the measures which Government can undertake to promote and develop large-scale and medium-sized industries and in particular to draw up a plan for the establishment and development of industries of national or economic importance including "Key" industries. The Committee which was set up in November, 1938, is still continuing its investigations and has already submitted two *interim* reports, namely, one regarding a scheme for marketing of cottage industry products and the second regarding electrical development in Bengal. These reports are now under consideration in the Agriculture and Industries and Commerce and Labour Departments respectively. Every endeavour will now be made to expedite the report of the Committee on the particular matter raised in this question so that Government may consider what steps may appropriately be taken by them during the present emergency. There appears to be no need to set up any other Committee as has been suggested in the question. The existing Industrial Survey Committee is thoroughly competent to deal with this matter and is at liberty to co-opt such scientific advisers as may be necessary. Government will lose no time in considering the Committee's report and taking such action as may be feasible and expedient for the development of important industries particularly those for whose establishment or development the present emergency conditions are specially suitable.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister be pleased to state whether the two interim reports have been published?

The Hon'ble Mr. NALINI RANJAN SARKER: No, that is still under Government's consideration.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister please state if Government will publish these reports?

The Hon'ble Mr. NALINI RANJAN SARKER: Yes, I think after it has been considered by Government.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister please state when the final report is expected?

The Hon'ble Mr. NALINI RANJAN SARKER: I think in the beginning of the next year but there has been some difficulty because the Chairman of the Committee has been called away by the Government of India, and we have not yet been able to find out a new Chairman.

Bridge over Sarta Khal of Chittagong.

10. Khan Sahib AMDUL HAMID CHOWDHURY (on behalf of Mr. Nur Ahmed): (*a*) Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state if he is aware that want of a suitable bridge over Sarta *Khal* in the Faticksary thana of Chittagong has been causing immense suffering to thousands of people who daily cross this important *khal*?

(*b*) Is it a fact that plan and estimate were long before prepared for the construction of an iron bridge over this Sarta *Khal*?

(*c*) Is it a fact that the said estimate and plan were approved by the Government?

(*d*) If so, what is the cause of the delay in taking up the work of this bridge?

(*e*) Will the Hon'ble Minister be pleased to state whether and when the work of this bridge is expected to be taken up? If not, why not?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Maharaja Srischandra Nandy, of Cossimbazar): (*a*) Government has received requests for the construction of a bridge.

(*b*) and (*c*) An estimate was prepared but as the proposed bridge is on the Chittagong-Hathazari Road which is intended to form part of the main road system of the Province, it is desirable that the bridge should conform with the minimum specifications laid down for Road Fund Works. The estimate as prepared did not comply with such specifications and the Commissioner of the Division has been requested to ask the District Board for a fresh one.

(*d*) and (*e*) The revised estimate has not yet been received. When it has been approved, the question of financing the project will be considered.

Darwaka Bridge.

11. **Khan Bahadur ATAUR RAHMAN:** (*a*) Is the Hon'ble Minister in charge of the Communications and Works Department aware that the extra work on the two ends of the Darwaka Bridge at Raigrâm has been washed away?

(*b*) Will the Hon'ble Minister be pleased to state if the present span of the bridge is sufficient to allow the flood water to pass?

(*c*) Does Government propose to repair this bridge entirely, the span of the bridge, and by making it flood-proof?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Maharaja Srischandra Nandy, of Cossimbazar): (*a*) Yes, the new earthwork added between the bridge and the approaches at either end was washed away.

(*b*) A proposal to add a short span at either end is under consideration.

(*c*) The bridge itself does not require repair; the approaches will be required in due course.

Construction of Nabharan-Satkhira Road.

12. **Mr. RANAJIT PAL CHOUDHURY:** (*a*) Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state whether construction of the Nabharan-Satkhira Road under the Road Board has been abandoned?

(*b*) If the reply be in the affirmative, will the Hon'ble Minister be pleased to state why after spending so much money the road is being abandoned half finished?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Maharaja Srischandra Nandy, of Cossimbazar): (*a*) No. The length of the road between Nabharan and Ellishpur is under construction and will be completed. I proposed to consult the Provincial Board of Communications about the portion from Ellishpur to Satkhira.

(*b*) Does not arise.

Mr. RANAJIT PAL CHOUDHURY: Will the Hon'ble Minister be pleased to state if the work is going on there at present?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, it is under construction.

Mr. RANAJIT PAL CHOUDHURY: Will the Hon'ble Minister be pleased to state when is the road proposed to be completed?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It is difficult for me to answer that question off-hand, but it is proposed to be completed in due course.

Mr. RANAJIT PAL CHOUDHURY: Will the Hon'ble Minister be pleased to state what is the quantity of work that has been done over there at present?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I had no opportunity of measuring it, but it is the whole length between Nabharan and Ellishpur which is under construction.

***Bridge over river Saraswati.**

13. Rai Bahadur MANMATHA NATH BOSE (on behalf of Rai Bahadur Satis Chandra Mukherjee): Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state how long the bridge on the Saraswati River in the Municipal town of Bansberia in the district of Hooghly has been kept closed to vehicular traffic? Will he please state at what stage or condition is the question of the reconstruction of the said bridge at present? Can the Government give an idea of the time when the bridge will be completed and be opened to vehicular traffic?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Maharaja Srischandra Nandy, of Cossimbazar): As I said in the reply which I gave on the 15th August, 1938, to part (c) of question No. 46 asked on behalf of the hon'ble member by Rai Bahadur Manmatha Nath Bose, this bridge is not under the administrative control of Government, enquiries about it should therefore be addressed to the Municipality. I may state, however, for the information of the hon'ble member that I believe that the bridge has been closed for more than 8 years, and that the Municipality are preparing revised plans and estimates for a new bridge. I am unable to say when the bridge will be completed.

Khan Khaya Khal.

14. Khan Sahib ABDUL HAMID CHOWDHURY (on behalf of Mr. Nur Ahmed): (a) Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state if it is a fact that Khan Khaya *Khal* at Dharmapur in the district of Chittagong is badly in need of immediate re-excavation?

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*An *ad interim* reply to the question was given on the 23rd November, 1939.

(*b*) Is it a fact that the District Magistrate of Chittagong went to Dharmapur on the 20th March, 1939, to see the condition of this *khal* and assured the people of the locality to get this *khal* re-excavated at an early date?

(*c*) Is it a fact that unless this *khal* is re-excavated all the lands of Abdullahpur, Dharmapur, Jahanpore, etc., of the Chittagong district shall ever remain fallow to the great loss and hardship of the poor villagers of these villages?

(*d*) If so, will the Hon'ble Minister be pleased to state what steps he proposes to take to have this *khal* re-excavated at an early date for the benefit of a large number of poor villagers? If not, why not?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Maharaja Srischandra Nandy, of Cossimbazar): (*a*) No; the *khal* was re-exacavated in May, 1939.

(*b*) The District Magistrate visited the khal on the 27th March, 1939.

(*c*) and (*d*) Do not arise.

Flood in Kandi.

15. Khan Bahadur ATAUR RAHMAN: (*a*) Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state what is the total area affected by the flood in July last, in Kandi subdivision?

(*b*) What are the causes of the flood?

(*c*) Does Government propose to make an enquiry and find out the real cause of the flood and take steps to remove them?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Maharaja Srischandra Nandy, of Cossimbazar): With your permission, Sir, I propose to reply to questions 15, 16 and 17 together. The reply is that full information relating to these questions have not been received and that they will be answered when information is received.

Embankment of the Mayurakshi river.

16. Rai Bahadur SURENDRA NARAYAN SINHA: (*a*) Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state whether it is a fact that the embankment of the river Mayurakshi is a "protected" embankment in the district of Murshidabad?

(*b*) Is it a fact that the Government grants annually decent sums to the landlords concerned, to repair the embankments?

(*c*) If the answer to the above be in the affirmative, will the Hon'ble Minister be pleased to state the names of these zemindars and the amount of "Pull-bandi" allowances granted to each?

(*d*) Is it a fact that the lands and roads of many villages in the police-stations of Barwan, Bharatpur and Kandi are annually damaged on account of the breaches in the embankment of the said river?

(*e*) What is the nature of control exercised by the Government in order to see that the zemindars repair the embankment properly?

(*f*) Has any check or control ever been exercised?

(*g*) If so, how many times has it been exercised?

(*h*) Is it a fact that the Government is thinking of abandoning its old policy and of not pressing on the zemindars to repair the embankments any more?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Maharaja Srischandra Nandy, of Cossimbazar): *Vide* reply to question No. 15.

Flood in Bengal.

17. Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: (*a*) Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state the number of districts and the number of villages and *taluks* that have been inundated by floods during the last rainy season?

(*b*) Will he be pleased to state in how many of such districts and *taluks* the inundation has been recurring for the last five years, and in how many cases the inundation was for the first time in the last rainy season?

(*c*) Will he be pleased to state whether the Government made any departmental enquiries into the causes of such inundation in each of the affected areas?

(*d*) Has the Government taken any steps to prevent the recurrence of such floods in those districts? If not, why not?

(*e*) Does the Government propose to appoint a Committee consisting of equal number of members of the Assembly and the Council and Government Experts to investigate into the causes of such recurring floods in Bengal?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Maharaja Srischandra Nandy, of Cossimbazar): *Vide* reply to question No. 15.

Regulation of jute cultivation.

18. Mr. LALIT CHANDRA DAS: (*a*) Will the Hon'ble Minister in charge of the Agriculture Department be pleased to state whether it is a fact that regulation of the cultivation of jute in Bengal largely depends on the demand for jute both inside and outside India?

(*b*) Is it the intention of Government to create a monopoly by restricting the cultivation of jute only to the jute-growers of 1939?

(*c*) Will the Hon'ble Minister be pleased to state the reasons for confining the recording of jute lands under the Bengal Jute Regulation Ordinance, 1939, to the year 1939 only? What precise relation is there between such lands and the matter of regulating the cultivation of jute in Bengal?

(*d*) Will not all the cultivating tenants or occupancy *raiyats* in respect of those who did or did not grow jute in 1939 be given the right to grow jute on certain percentage of lands in their holdings which are fit for cultivation of jute? If not, will Government be pleased to give reasons therefor?

MINISTER in charge of the AGRICULTURAL DEPARTMENT (the Hon'ble Mr. Tamizuddin Khan): (*a*) It is not quite accurate to say that regulation depends on the demand. The object of regulation is to adjust, as far as possible, the supply of jute to the anticipated demand for jute and jute manufactures throughout the world with a view to keep up the price of raw jute and to keep it steady.

(*b*) No.

(*c*) The Ordinance provides for the making of a record of the lands upon which jute was actually grown by every individual grower of jute in 1939. This record is an essential part of the information which Government must have before any action to regulate the acreage in future years can be taken. The year 1939, that is the present year, was chosen because, obviously, it is the year about which accurate information is most readily available. The hon'ble member will observe that the Ordinance contains no provisions for regulation of the acreage under jute. Such provisions are contained in the Jute Regulation Bill recently published, a copy of which has been placed on the Library table. From a perusal of this Bill, it will be seen that the system of regulation proposed is not based on the area recorded in any particular year but may have reference to more than one particular year either in the same or in different localities.

(*d*) I do not think that it is practicable under the present circumstances to devise any effective system of regulation which would allow each and every cultivator the right to grow jute on a certain percentage

of his holding. In the first place, it would be impossible to define what is "land fit for cultivation of jute." I think the system embodied in the Jute Regulation Bill, 1939, is the only practicable one in the present circumstances.

Non-official Resolutions.

Mr. PRESIDENT: Non-official resolutions will now be taken up for discussion.

Mr. RANAJIT PAL CHOUDHURY: Sir, I beg to move that this Council is of opinion that effective steps should be taken so that physical drill in all primary schools, military drill in all secondary schools and the study of military science and a course of military training for all college students may be made compulsory irrespective of age, caste, creed and colour, throughout the whole province of Bengal.

The Hon'ble Mr. TAMIZUDDIN KHAN: Both male and female?

Mr. RANAJIT PAL CHOUDHURY: Since we are having co-education, why not?

Mr. PRESIDENT: Under rule 93 of the Council Rules, I fix one hour to be the maximum time for the discussion of this resolution: 15 minutes for the mover and the Government member and 10 minutes for the other members.

Mr. RANAJIT PAL CHOUDHURY: This resolution of mine has been figuring on the list of admitted resolutions of this Council for nearly two years now. I have been fortunate this time to get the ballot. This was long long before the present conflagration among the powers in Europe set in; so it must not be taken to mean that this resolution of mine has anything to do with the present War. Nor should it be thought that it has anything to do with the military preparations here. My demand is quite modest. It ought to be regarded an adjunct of the general academic education that is already existing. The general education in the schools and colleges has been considered imperfect and truly one-sided because of the lack of proper and regular physical culture along with that. It is in fact the physical culture in early years of life that ensures regularity of habit and inculcates discipline in conduct. As such, imperfection in one's general education can be cured by undergoing drill in a systematic way. I have pleaded for compulsory physical drill in all primary schools. Physical drill in the impressionable years of life not only makes the limbs agile and supple but also imparts vigor and agility to the system. Once it is

neglected in that period of life, it becomes difficult to get into the drill habit afterwards without much effort. Throughout the civilised world, physical drill in some form or other in the primary schools has formed a part and parcel of the child's general education. It is really a matter of regret that our leaders of education and thought have failed to take due note of this important factor in the child's training which is so very essential for nation-building purposes. The time has now come when they cannot any longer remain listless and unconcerned in such important matters. In order to enable India to become fit physically, such an exercise is essential for the children of all communities.

Sir, having already dwelt upon the value of physical drill for our children, it is redundant to dwell upon the necessity of such a drill for the grown-ups in the secondary stage in schools. What I intend to propose for the secondary school is that our boys should be made to undergo drill on military lines with sham rifles or lathis or the like under military experts. With such a trained batch, we can easily form a band of national militia for the defence of our hearths and homes. Besides, the training under military experts will generate a spirit of manliness and self-reliance and a habit of order and regularity and unloosen the latent energy and capacity among those who will undergo it. Manhood will then prove to be a veritable asset to our boys and the race will grow in health and stature and will live longer. Our nation's future will be brightened up. We shall thus be able to redeem our manhood once again.

Similarly, Sir, the study of military science in the college will impart instruction in military techniques to our youths who will have it in their course of studies and who may be called upon in some near or distant future—let us hope it will be distant—to shoulder the responsibility of protecting their country from foreign attacks or invasion. My suggestion in this matter is nothing new. Some Universities have already instituted theoretical courses in the military science. What I want is that our province should not lag behind in such an important matter affecting our future well-being. We have got to make our youths military-minded in such a way that if we give them sufficient opportunities and impetus, they are sure to prove second best to the Rajput and Sikh youths in military matters after some time. It is farthest from my mind, but supposing such a contingency arises that Bengal needs to be protected by her own youth, then these militarily-educated and trained youths with slight realistic modifications in their training will be able to shoulder the responsibility if the occasion comes. Sir, what is needed now is really earnestness on our part. Our people without distinction of caste, creed or colour should rise to a man and insist upon this demand. Such a demand should be placed side by side with our demand for general and technical education. The time has now come in all conscience to make a serious move in the matter,

especially for us in this militarily-neglected province of ours. The time-worn policy of distrust on the part of our rulers, the policy of indifference on the part of our political leaders and legislators, the policy of drift so long pursued in such matters must be abandoned if we want to live as men and do not mean to go under.

Now, as to the costs that may be involved in giving effect to this resolution, I do not want to saddle the exchequer unnecessarily. There is already a Buchanan system working throughout the province. There is a Director of Physical Education functioning at the headquarters with an office and a staff looking after physical education in the province. Again, every school is equipped with one or two teachers trained in the Buchanan system. Physical drill is even now undergone in all schools but has been so long done in a happy-go-lucky manner. What is needed is that such drill should be made compulsory in the curriculum and should be imparted in an intensive and extensive way.

As regards drill on military lines, that can be very well adopted in all educational institutions with the help and co-operation of the members of the University Training Corps and ex-Army men. The military science, of course, has got to be taught by enlisting the sympathy and support of other officers from the Army or by professors who have been themselves trained in military science. Sir, I have to thank my honourable friend Mr. Nur Ahmed—but I do not see him here—for his very valuable amendments which have gone to strengthen my case. I am agreeable to accept them if the House also agrees to accept them.

With these few words, Sir, I commend my resolution to the acceptance of the House.

Mr. PRESIDENT: Resolution moved:

This Council is of opinion that effective steps should be taken so that physical drill in all primary schools, military drill in all secondary schools and the study of military science and a course of military training for all college students may be made compulsory irrespective of age, caste creed and colour, throughout the whole province of Bengal.

***Maulana MUHAMMAD AKRAM KHAN:** এই প্রস্তাবে তিনটী বিষয় আলোচনা করা হোয়েছে। প্রথমে বলা হোয়েছে বাংলা দেশের সমস্ত প্রাইমেরী স্কুলের সমস্ত ছাত্রের, ইংরেজীতে students বোলতে ছাত্রীদেরও include করে কিনা সে আমি বোলতে পারিনে, প্রতি বাধ্যতা মূলক Physical drill শিক্ষার ব্যবস্থা কোরতে হবে। দ্বিতীয়ত সমস্ত secondary school এর ছাত্রদের military drill শেখাতে হবে। তৃতীয়ত সমস্ত কলেজের ছাত্রদের military শিক্ষার সঙ্গে সঙ্গে সামরিক বিজ্ঞানও শিক্ষা দিতে হবে।

* An authorised English translation of this Bengali speech will be found in the Appendix.

এবিষয়ে আমি মান্যবর প্রস্তাবক মহাশয়ের কাছে এবং এই হাউসের কাছে আমার যৎকিঞ্চিৎ বক্তব্য নিবেদন কোরতে চাই। দীর্ঘকাল ধোরে বাঙ্গালীদের সম্বন্ধে এই একটা কলঙ্ক প্রচলিত আছে যে—তাদের মধ্যে ক্ষাত্র শক্তি নাই। সেই কলঙ্ক যদি দূর কোরতে হয়, তাহলে কোন রকম একটা সামরিক শিক্ষামূলক প্রতিষ্ঠান গোড়ে তার ভিতর দিয়ে বাংলার যে সমস্ত লোক স্বভাবতই শারীরিক হিসাবে শক্তিমান সেই সমস্ত লোকদের সামরিক শিক্ষা দেওয়া দরকার। নৈলে দৈনিক ড্রিল কোরতে হলে যে রকম শক্তিমান হওয়া এবং কষ্ট সহিষ্ণুতা থাকার দরকার সে রকম শক্তি ও কষ্ট সহিষ্ণুতা এ দেশের অনেক ছেলের নাই। আমি যদিও বাংলার বা ইংরেজী কোন স্কুলে কখনো পড়ি নাই, তবু এগারো জন ছাত্রের আমি অভিভাবক। এবং সেই হিসাবে আমি ছাত্রদের সম্বন্ধে কিছু কিছু জানি। তারপরে কলিকাতা মাদ্রাসা কমিটীর মেম্বর হিসাবেও এ সম্বন্ধে আমার কিছু প্রত্যক্ষ অভিজ্ঞতা আছে। গ্রামে যে সমস্ত প্রাথমিক স্কুলে ছাত্রেরা পোড়তে যায় তাদের বয়স কত এবং কতদূর থেকে তারা সেই সব স্কুলে যায়? আপনারা হয়তো অনেকেই জানেন যে—সেই সব ছোট ছোট ছেলেদের দেড় মাইল দু মাইল হেটে স্কুলে যেতে হয়। সকাল বেলায় দুটী পান্তা ভাত বা আলু ভাতে ভাতে খেয়ে দেড় মাইল দু মাইল পথ হেটে গিয়ে ৩।৪ ঘণ্টা পড়ে আর মাষ্টার মহাশয়দের ঠেঙ্গানি সহ্য করে তারপর যখন তাদের পেটের মধ্যে কুল্ কুল্ কোরতে থাকে, তখন যদি তাদের left, right কোরে drill কোরতে বাধ্য করা হয়—তাহলে সেটা হবে তাদের পক্ষে নিষ্ঠুরতা। আমি অবশ্য এ প্রস্তাবের প্রতিবাদ কোরছিনে, তবে আমার বক্তব্য এই যে physical drill যদি primary স্কুলে এবং military drill যদি secondary schooll এ compulsory কোরতে চান এবং সঙ্গে সঙ্গে আপনারা যদি নির্ব্বংশ না হোতে চান, তাহলে আপনাদের এই ব্যবস্থাটাও compulsory কোরতে হবে—যে তাদের যেন খালি পেটে drill না করানো হয়। আমার একমাত্র আপত্তি এইটুকু।

Khan Bahadur NAZIRUDDIN AHMAD: Sir, the previous speaker has fully dealt with the question of physical drill in primary schools. I do not wish to cover the same ground. I shall confine myself to the remaining matters, i.e., the introduction of "military" drill, the study of "military" science and a course of "military" training in our colleges. At the very outset, I feel it extremely difficult to follow what "military" drill actually means or what the proposer really means by this expression. If "military" drill is something apart from ordinary drill, I think students must be given guns and rifles and they should be given training in gun-practice, rifle-practice, aeroplane-practice and things of that kind. My honourable friend has said that this training can be given through the courtesy of military officers. According to him, this training must be given not in one centre in Calcutta but in all colleges scattered throughout Bengal. I believe the services of trained military officers for the purpose will not be available through mere courtesy. Military officers cannot be had for the mere asking. They are not amenable to provincial influences. My honourable friend's alternative suggestion is that our college professors, trained in the military sciences, should be employed to give this training. I have yet to learn that there is any professor in Bengal or in India or possibly in the whole world who, as such, will be able to give military training—something apart from ordinary drill and ordinary physical culture—to our young men. There are two very honourable professor-members in this House. They are at the moment both absent. I think that if they are asked to undertake this

duty, they would run away from their task and possibly scenting the danger in this direction, they have both left the House for fear of being requested to handle military arms and ammunitions. I submit that training in the "military" sciences and "military" practice is all high talk. It should be ruled out, firstly, on the ground of cost; the scheme involves pound, shilling and pence and no college is solvent enough to bear the expenses. It should also be ruled out on the ground of impracticability. If my honourable friend wishes to introduce more physical exercise, better drill and advanced physical culture in our colleges, he will be well within practicable limits and everybody will sympathise and agree with him. But this high-sounding resolution amounts to mere pious wish. If this House is to function properly and effectively, it should propose things which are practical. Mere expressions of good sentiments, generous feelings or pious opinions might capture the imagination of the man in the street but men who are accustomed to appreciate the responsible function of the Upper House will expect a better standard—a much more practical standard from us. With these observations, I oppose the immediate introduction of military drill and teaching of "military" science and course of "military" training in all colleges throughout the Province.

Mr. KAMINI KUMAR DUTTA: Sir, as far as I have been able to follow the trend of this resolution, to me it appears that it is not the object of my friend, the mover of the resolution, to convert all the educational institutions into places for turning out fully equipped military officers or soldiers. The resolution must be understood in its true sense. The main contention of the mover is that full development of manhood requires that not only the mental capacities of our boys and girls should be trained and developed, but their bodies also must be developed. Apparently, the resolution aims at the attainment of true manhood which would enable any man to defend his hearth and home. It has been argued that it will necessarily entail a good deal of expense if full military training is to be given in all the educational institutions. Certainly, it will. But the object of the resolution, as I have already stated, does not appear to be to impart full military training in our educational institutions. That is not done in any part of the world. For that purpose, there are different institutions. But at the same time, every nation which claims to live as a nation does require that all adult males and females should fully equip themselves to defend their own honour, to defend the honour of their Motherland and to defend the honour of their hearths and homes. Sir, there is a stigma attached to the Bengalees that they are not fit for military services. That slur has got its real origin in the exclusion of Bengalees from the military services and from

getting any military training. First, they are excluded from the opportunity of getting any military training and then the slur is cast upon them that they are inefficient. This inefficiency, I should say, is an artificial barrier created for a particular purpose. That stigma must be removed. Sir, in modern times, it is not only the power of the muscles which makes an efficient soldier. It requires brain too. A mechanised army of modern times does not consist of illiterate soldiers only. It requires brain more than brawn and as the world affairs are now taking different shapes almost every day and as it is in the mouth of everybody that a new order is coming,—although we do not know what that new order would be like,—one thing is clear that every one must be ready to defend his country, to defend his freedom, to defend his hearth and home. Not a moment ought to be lost for giving full opportunity to the young men and women of the country —I particularly say, young women—to prepare themselves for full development of their body and mind. We find that we have been reduced almost to a race of imbeciles; we cannot resist ordinary robbers, we cannot resist kidnappers who would abduct our daughters and sisters. This state of things ought not to be allowed to continue. I fully support the resolution which urges that steps ought to be taken for giving full physical training to the young men and women of our country, so that there may be full development of their bodies and minds.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, may I know if the time-limit has been reached?

Mr. PRESIDENT: I have fixed the maximum time-limit of one hour for this resolution. I have not allowed other members to speak on this resolution lest the House should miss the opportunity of hearing the Government point of view.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I am in full agreement with the aim and object and also the sentiment behind the resolution, especially as expressed by the Leader of the Opposition, or rather, I should say, as the resolution has been modified by the Leader of the Opposition. But the resolution, as it is worded and as it stands at present, is such that I have got no option but to oppose it, primarily on the ground, as has been stated by Khan Bahadur Nazir-uddin Ahmad, of its impracticability. For example, the first portion of the resolution says that "effective steps should be taken so that physical drill in all primary schools .....". Now, Sir, the House is well aware that a compulsory primary education scheme envisages an expenditure of something like 1½ crores to 2 crores of rupees—perhaps 2½ crores. Now, if to that we add a teacher who can give training in physical drill to the boys in the primary schools, I would just ask

you to imagine how much the cost will be enhanced. It is true that we are trying to employ as far as possible trained *gurus* who can give some amount of instruction in physical drill and it may be possible that we may be able to utilize them. But even now and for sometime to come, the number of such trained *gurus* teaching in the primary schools will be something in the neighbourhood of 25 to 30 per cent., whereas the rest, as far as my knowledge goes, are untrained teachers. Therefore, to provide for training in physical drill in primary schools is a thing which apart from all other considerations is beyond the means of this Government, specially keeping in mind the fact that the party to which the honourable mover belongs has, I believe, insisted always that primary education should be free and compulsory without payment of any tax whatsoever. Now, Sir, that will mean that something like Rs. 2½ to 3 crores will have to be found from the provincial exchequer. Therefore, that part of the resolution is absolutely impracticable.

Then again, as far as military drill in secondary schools is concerned, if it means what has been stated by the Leader of the Opposition and Khan Bahadur Naziruddin Ahmad, viz., development of the body, development of physical culture and improvement of the physique of the youths of Bengal, well, Sir, that is the accepted policy of Government. They are giving effect to it and they are prepared to give an undertaking that as far as possible and practicable, they will take every step to improve that side of the question. I am sure, even the honourable mover does not mean military drill in the sense of military training or anything like this and if by this, he means military physical exercise, then I am in full agreement with him. As a matter of fact, our physical instruction now is based on the military physical exercise and, I believe, the new men who are being taught under the Buchanan system in the physical training school get what is called the military physical training.

Therefore, Sir, so far as that aspect of the matter is concerned, Government are not only anxious but are always ready, as far as means would allow, to do as much as they can; because, they feel that the province cannot progress unless the physique of the youth is improved. It is one of the things which every modern country is now insisting on and it is our duty also to insist on it. Here again, I would draw the attention of the members to the fact that in every one of the secondary schools which are scattered all over the province, we must have a trained teacher. Unfortunately, Bengal did not have any Physical Training College before. It is only since this Government came into power or I believe just before this Government came into power that a Physical Training College was started here. We are trying, as far as possible and as quickly as possible, to get as many trained teachers as we can for, without trained teachers we may make

bad mistakes. We are trying to do it, and we are trying as far as possible to make it compulsory. Now the question is this: unless we get trained teachers it is rather difficult to make it absolutely compulsory. But we are taking every step in that direction.

I come last of all to the question of providing military training for college students. A study of military science and a course of military training for all college students is proposed to be made compulsory irrespective of caste, creed or colour throughout the whole province of Bengal. Here again, I think it is an unpractical proposition. What we have done so far is to provide University Training Corps both in Calcutta and Dacca. Unfortunately, our experience in that respect has been rather disappointing in a way. The number of pupils who have taken advantage of it is very few and those who have joined it have not tried to do so as enthusiastically and keenly as one would have expected. There has been a large number of absentees. The figures regarding the Calcutta University Training Corps are as under. The authorised strength of the unit is 673. The average strength of the unit throughout the year has been 522. The number of cadets that should have attended the camp was 469. The number of cadets that did not attend the camp was 272. The number who left the camp before completion of training was 59. The percentage of unit that did not complete parade obligation was 84·1 and so on and so forth. There are some other figures also. I need not go into them. I only want to show that the response to this kind of training has been rather poor and public opinion should be roused that students in the Universities of Dacca and Calcutta should take advantage of the facilities provided and join the University Corps and do it properly and not simply join. Government are also prepared to consider the extension of the University Training Corps to other mufassil colleges but we cannot make a definite promise for the simple reason that to be able to do that we have got to get the consent and approval of the military authorities who have to depute a trained officer. Besides, the questions of custody of arms, rifles and other things have got to be properly settled, before we can extend the facility of a Training Corps to a particular college. But that is one of the questions which we are examining and which we are prepared to examine further. We are prepared to see that this facility, viz., to allow the students of colleges to join the Training Corps, should be available as far as possible. In view of what I have stated especially accepting in principle the sentiments behind this resolution, I hope the mover will withdraw it.

Rai KESHAB CHANDRA BANERJEE Bahadur: Sir, I feel that I would be failing in my duty if I did not say a few words in support of this resolution, because on two previous occasions I was responsible for sponsoring similar motions which aimed at giving military training

to the people of Bengal. I quite understand the viewpoint of the Hon'ble Home Minister that the resolution as it has been worded cannot be accepted on account of the financial liabilities involved.

The Hon'ble Khwaja Sir NAZIMUDDIN: Also on the ground of impracticability.

Rai KESHAB CHANDRA BANERJEE Bahadur: I don't think that the hon'ble mover means anything beyond a short course—a primary course—of military training to the young boys so that ultimately when they grow up into full manhood, they may have opportunities of receiving full military training under experts. Sir, physical drill presupposes capacity to bear arms. The present generation of our young men are hopelessly weak and it is generally believed that this physical weakness is due mainly to the absence of adequate facilities for physical culture. I fully appreciate the remarks of Hon'ble Home Minister that it is not practicable to give effect to the resolution so far as military training is concerned, because in that case it would require the permission of the Army authorities in India and the provision of necessary funds. But there is one thing which I cannot properly understand, viz., the financial implications of the question. In the Congress provinces, a course of military training was arranged by the Congress Ministries. If it was a question of funds, then those provincial Governments would not perhaps have been in a position to think of introducing a short course of military training for their boys. It is a question into which, I think, the Hon'ble Minister would do well to have an enquiry made in order to find out the details of the scheme prepared by the Congress Ministries and if it is considered possible to obviate those difficulties, then the Government should not hesitate to arrange for an elementary course of military drill as suggested by Mr. Pal Chaudhury. In any case, the difficulties do not seem to be insuperable if only there is the will to take up the question earnestly. With these words, I support the resolution.

Mr. KADER BAKSH: Sir, I want to say a very few words on this resolution. I don't think that I require any very long time to explain the situation as it prevails now. Sir, as the Hon'ble Home Minister has said, the sentiment behind the resolution is laudable and the principle has been approved. There is no objection to the acceptance of the principle but the question is whether there is any practical difficulty in the way of introducing physical training in all primary schools in the interior. As far as I remember, there are about 64,000 primary schools scattered throughout the province. We will have to see whether it would be possible to give effect to any scheme for such physical training in those schools at once or in the course of 64 years. Sir, the question of introducing free and compulsory primary education has been in the air. It was introduced about

11 years ago in the old Council. But Government have not been able to give full effect to it. And why? The question is being discussed year after year on the floor of the House but nothing could be done appreciably in that direction on account of dearth of funds. Would it not have been better if my hon'ble friend, the mover of the resolution, had given some practical suggestions as to how to raise the fund which might be required for the purpose of giving effect to the system which he has placed before the House. But unfortunately, Sir, we always think and talk of big things and never give any practical suggestions as to how those schemes could be introduced in practice. It would have been better if my hon'ble friend, the mover of the resolution, had given some sort of suggestion with regard to the fund which would be required in his opinion for bringing the scheme into operation. If it is to be done, all the teachers in primary schools must be first given training under the Buchanan system. Without giving any sort of training to the teachers, the idea of bringing the scheme into operation will remain a vision.

As regards the introduction of military science in secondary schools, maktabs, tols, etc., which are scattered all over the province, the number of people who would be required for the purpose of staffing them will not be available. We would have to wait and wait.

Military training through ordinary schools and colleges as my friend, the Leader of the Opposition, has admitted, does not exist anywhere in the world. If it is to be imparted, it must be done by opening a college or an institution where people who are desirous of taking military training may get admitted. Though I have every sympathy with the principle of the resolution, nevertheless, I think it is impracticable. Either it should be withdrawn or opposed.

*Khan Bahadur Maulvi MUHAMMAD IBRAHIM: পাল চৌধুরী মহাশয়ের প্রস্তাব বেশ প্রণিধান যোগ্য, সমর্থন যোগ্যও বটে, কেননা ভারত যদি কোন দিন স্বাধীনতা সংগ্রামে অংশ গ্রহণ করে তাহলে পাঞ্জাবীরা তাদের ছেলে পেলেদের যেভাবে military training দিচ্ছেন, আমরা বাঙ্গালীরাও সেইভাবে ট্রেনিং দেওয়া উচিত। কেননা তখন পাঞ্জাবের নেতারা এ কথা বলতে পারেন—আমরা যখন ভারতকে স্বাধীনতা দানের জন্য এতখানি করেছি, বাঙ্গালী তাহার ভাগ কেন পাবে? সুতরাং বাঙ্গালীকে অনেক পশ্চাতে থাকতে হবে তখন। বাঙ্গালীকে কিছুতেই রক্ষা করতে পারা যাবে না। কিন্তু সেই অবস্থার মূলে একটা পারিপার্শ্বিক অবস্থা দেখবার দরকার আছে। আক্রাম খাঁ সাহেব অতি সত্য কথা বলেছেন। এখানে যে অবস্থা তাতে Physical Training এর জন্য— Buchanan Training, ব্রতচারী ট্রেনিং, প্রভৃতির যে ব্যবস্থা আছে তার জন্য যথেষ্ট শিক্ষক পাওয়া যায় না। বিশেষতঃ ছেলেদের খাওয়ার অবস্থা এমনি হয়েছে যে তারা এক রকম না খেয়ে থাকে। কোন কোন জায়গায় অবশ্য tiffin এর ব্যবস্থা হয়েছে তাও মাসে চার গণ্ডা। অর্থাৎ দৈনিক আধ পয়সা। গভর্ণমেন্ট সে সম্বন্ধে বোধ হয় কিছু কিছু কচ্ছেন। সুতরাং ছেলেদের পেটে যদি অন্ন না থাকে তাহলে তারা কেমন করে military training পাবে আমি বুঝতে পারি না।

*An authorised English translation of this Bengali speech will be found in the Appendix.

অবশ্য আপনারা বলতে পারেন পাঞ্জাবের ছেলেরা যদি পারে বাংলার ছেলেরা কেন পারবে না? পাঞ্জাবের থেকে কি বাংলার অবস্থা হীন? বাংলার অবস্থা পাঞ্জাব অপেক্ষা যদিও ভাল তথাপি যদি গভর্ণমেন্ট ছেলেদের খাওয়ার ব্যবস্থা আগে করেন তাহলে বোধ হয় এই প্রস্তাব আরও সুসঙ্গত হবে।

দ্বিতীয় কথা:— Teacher পাওয়া যাবে কোথায়? প্রাইমারী স্কুল, সেকেণ্ডারী স্কুলের সেই অবস্থা নাই। আমি কোন একটা স্কুলের সঙ্গে সংশ্লিষ্ট। তিন বৎসরের মধ্যে দশজন Physical Instructor এর appointment দিয়েছিলাম, একজনকেও টিকাইতে পারি নাই, কেন না গভর্ণমেন্ট স্কুলে তাদের অত্যন্ত চাহিদা, এই অবস্থায় প্রাইমারী স্কুল ও সেকেণ্ডারী স্কুলের জন্য trained teacher কোথায় পাওয়া যাবে? সুতরাং trained teacher এর ব্যবস্থা করার পরে যদি বাংলাদেশে এই ব্যবস্থা করা হয় তাহলে পাল চৌধুরী মহাশয়ের প্রস্তাব আমি সমর্থন করি। ছেলেদের training এর জন্য উপযুক্ত শিক্ষকের ব্যবস্থা এবং ছেলেদের খাওয়া দাওয়ার ব্যবস্থা—যা আক্রাম খাঁ সাহেব বলেছেন—হওয়ার পরে এই প্রস্তাব করলে আমি সর্ব্বান্তকরণে তাহা সমর্থন করিতাম।

Mr. RANAJIT PAL CHOUDHURY: Sir, in view of the sympathetic assurance given by the Hon'ble Home Minister, may I have your permission to withdraw my resolution?

Mr. PRESIDENT: Is it the desire of the House that leave be granted to the honourable mover to withdraw his resolution?

(Cries of "no objection".)

The resolution was then, by leave of the House, withdrawn.

Rai KESHAB CHANDRA BANERJEE Bahadur: Mr. President, Sir, I beg to move that:—

This Council is of opinion that the Bengal Board of Film Censors should exercise stricter control in regard to films and the publication of film pictures in the newspapers which might have the effect of inculcating immoral ideas in the minds of young boys and girls.

Sir, the subject-matter of the resolution is one of paramount importance to the society in general and to the present generation of our young boys and girls in particular. There can be no two opinions about the desirability of my proposition, particularly at the present time when evil influence and temptations of all kinds threaten to blast the future of our young hopefuls in this country. As the hon'ble members of this House are aware, the exhibition of objectionable films from the standpoint of morality and the publication of obscene pictures in the newspapers and handbills have assumed such proportions as to call for prompt action effectively to deal with this growing menace.

Sir, we in this House have no right to amend the Indian Cinematograph Act which is an Act of the Central Legislature. But we can urge upon the Local Government to devise ways and means to ban the production and exhibition of objectionable films so far as it lies in their power under the said Act.

The question of the adequacy of the censorship exercised over cinematograph films has been attracting for some time past increasing public attention. The report of the Committee appointed by the Government of India in 1927 to examine, among other things, the organisation and the principles and methods of the censorship of cinematograph films in India amply repays perusal. The Committee, after protracted deliberations, came to certain specific conclusions and the point raised in this resolution was also elaborately discussed. The vast majority of witnesses examined by the Committee were of opinion that proper censorship was the only effective method of preventing the import, production and public exhibition of films which might demoralize morals, hurt religious susceptibilities, or excite communal or racial animosities. The Committee unanimously agreed with this popular view. The Statute under which cinema exhibitions are controlled and films censored is the Cinematograph Act, 1918 (II of 1918), as amended by the Cinematograph (Amendment) Act, 1919, and the Devolution Act of 1920. The main objects of the Act of 1918 were (1) to provide for the safety of audiences and (2) to prevent the exhibition of objectionable films. The pre-existing law relating to (1) was scattered over various Provincial Police Acts and Municipal Acts, while as regards (2) the only law applicable was contained in sections 292 and 298 of the Indian Penal Code, section 144 of the Criminal Procedure Code and rules under the Presidency and Rangoon Police Acts. Amendments were made in the Act by the Devolution Act (XXXVIII of 1920) by which certain powers given by the original Act to the Governor-General in Council devolved upon Provincial Governments.

Control of cinematographs is now a Provincial subject; but it is subject to legislation by the Central Legislature in regard to sanction of films for exhibition (Devolution Rules, Schedule I, Part II, 33 (*f*).

The Cinematograph Act provides that no cinema exhibition shall be given except in a place which has been licensed, such licences are to be granted by the District Magistrate, or, in a Presidency Town or in Rangoon, by the Commissioner of Police, unless the Provincial Government appoints some other authority. The Act also provides that no film shall be exhibited unless it has been certified by the proper authority as suitable for public exhibition. Under this section, Boards of censors have been constituted at Bombay, Calcutta, Madras, Rangoon and in the Punjab. Rules have been framed under the Act by each of the five Provincial Governments concerned regulating the certification of films and prescribing the conditions of licences. In the first place, a District Magistrate or in a Presidency Town or Rangoon, the Commissioner of Police, is empowered to suspend at any time the certificate of any film pending the orders of the Provincial Government [Section 7(5)]; and that Government can then declare the film to be

deemed uncertified throughout the Province or any part of it. In the second place, the Provincial Government can take this action of its own motion. Thirdly, a Board of Censors can re-examine any film which has already been certified and suspend the certificate in that Province pending the orders of the Provincial Government.

Sir, I have dealt with the legal aspect of the question and shall now refer to the constitution of the Board of Censors in Bengal. The Bengal Board consists of the Commissioner of Police, Calcutta, President ex-officio, a lady representative who is a European, representatives of the Bengal Chamber of Commerce and of the Calcutta Trades Association, a Jewish merchant, a Muslim Principal representing the Education Department, and a Hindu lawyer representing the Corporation of Calcutta, the total strength being eight. A Deputy Commissioner of Police is ex-officio Secretary, and receives an allowance of Rs. 100 a month. The Board has a part-time European Inspector who receives from the Board an allowance of Rs. 300 a month. There is an additional Indian Inspector whose pay is Rs. 100—5—150 plus a conveyance allowance of Rs. 25 a month. The members of the Board and the Secretary are paid a fee of Rs. 16 for attending Board meetings and for sitting on any sub committee appointed to examine films. The office of the Board is situated at the Calcutta Police Headquarters. It will thus appear that out of eight members only two are Bengalees. The preponderance of the European element on the Board is hardly consistent with the spirit of the times. The cost——

Mr. PRESIDENT: Order, order. I now adjourn the House for prayer; it will meet again at 4-20 p.m.

After adjournment.

Rai KESHAB CHANDRA BANERJEE Bahadur: The cost involved is also very heavy. The machinery of administration, therefore, is not such as to inspire confidence, as will appear from the objectionable films allowed by the Board for public exhibition. The reason for this is not far to seek. The Indian standard of morality is different from that of the Western countries. In the eyes of the Westerners, love-making scenes are not objectionable, whereas we consider film scenes showing passionate love-making, long lingering kisses and passionate embraces as having a tendency to demoralise the youth of the country. Then again, suggestive impropriety in dress and conduct and amorous gestures as exhibited on the screen are difinitely harmful in that they produce a direct and vivid impression upon the mind of the spectator. Judged by the Indian standard, the American films are the worst in

this respect. To give an example of this sort of criticism, a well-known Bishop intimately acquainted with India stated (as reported in the Press) in a speech at a conference in England in 1925:—

"The majority of the films, which are chiefly from America are of sensational and daring murders, crimes, and divorces and on the whole degrade the white women in the eyes of the Indians." Questions were also asked in Parliament regarding the censorship in India and the harm which is done by these undesirable films over which public opinion is very seriously disturbed in India. One of the questioners—Colonel Day—asked, "Is the noble Lord aware that the last film banned was a British film and not an American film?" Earl Winterton replied —"I do not know that, but at any rate, it was an undesirable film."

The British Social Hygiene Delegation which visited India some years ago made the following observations in their memorandum on the cinema, among other drastic criticisms of the films exhibited in India:—

"In every Province that we visited the evil influence of the cinema was cited by educationists and the representative citizens as one of the major factors in lowering the standard of sex conduct, and thereby tending to increase the dissemination of disease."

(At this stage, the bell rang indicating that the time-limit had been reached.)

Rai KESHAB CHANDRA BANERJEE Bahadur: May I have five minutes more?

Mr. PRESIDENT: You can take as much time as you like. I have not fixed any time-limit for this resolution.

Rai KESHAB CHANDRA BANERJEE Bahadur: The question has been discussed on two occasions in the Council of State. On the 22nd January, 1925, the Hon'ble Mr. (now Sir Ebrahim) Haroon Jaffar moved a resolution urging upon the Governor-General in Council to set up such machinery as would be able effectively to regulate the import into India of cinema films and to exercise a stricter control over cinemas generally. In the course of his speech he stated *inter alia*, "It would almost appear that certain of the American producers cater especially for such countries as India and Japan and make films which they would never dare to release in America or England". Continuing he said "I believe it is also true that any films which are so suggestive as to come under the ban of the Censorship Board of America are silently packed up to places like India where up to the present the authorities have not been so strict in these matters". In the course of the debate the Hon'ble Mr. R. P. Karandikar stated "It has been a

matter of complaint all over India that the student world is drawn away from the right path by the kind of cinema representations that are open. It is time for us to look into the matter more closely". The Home Secretary in his reply said "We have recently in a general review of the whole question called the attention of local Governments to the the directions in which under the existing Act by the existing machinery improvements can be attained".

I could quote further authoritative opinion in support of my contention but as the time at my disposal is limited, I shall conclude by appealing to the Ministry to take such steps as would prevent the exhibition of what are called "Sex" films and "Crime" films and the publication of obscene posters, hand-bills and advertisements which unmistakably tend to have a bad effect on the morals of children and adolescents in our society.

I am not aware whether Inspectors of films in Bengal have any definite instructions or data to follow in regard to the banning of undesirable films. If not, Government would do well to refer to the suggestions given by the Bombay Board of Film Censors to their Inspectors and stiffen up and raise to reasonable efficiency the present censorship in this province which is largely nominal in character.

Mr. PRESIDENT: Resolution moved:

"This Council is of opinion that the Bengal Board of Film Censors should exercise stricter control in regard to films and the publication of film pictures in the newspapers which might have the effect of inculcating immoral ideas in the minds of young boys and girls".

***Maulana MUHAMMAD AKRAM KHAN:** সভাপতি মহাশয়, আমি আপনার অনুমতি নিয়ে একটা short notice amendment House এর কাছে উপস্থিত কোরতে চাই। সেটা হোচ্চে এই যে in the third line, the words "in the newspapers" be omitted.

সিনেমা সম্বন্ধে কোন রকম বিশেষজ্ঞতার দাবি আমার নাই। কিন্তু তা না থাকলেও বলতে পারি যে পথে ঘাটে সদা সর্ব্বদা যে সমস্ত পোষ্টার বা হ্যান্ডবিল বিতরিত ও প্রচারিত হয় সেগুলি সংবাদ পত্রের চেয়ে অনেক বেশী অংশে আপত্তিজনক। সেগুলোকে বাদ দিয়ে যদি newspaper কে ধরা হয়, তাহলে newspaper এর উপর খুব অন্যায় করা হবে। বর্ত্তমানে তাদের উপর Press Act এর অধিকার রয়েছে; তার উপর Ordinance আর Press Censor তো আছেই; এখন আবার যদি এসব করা হয় তাহলে বাইরের লোকেরা বুঝবে এই যে বাংলা দেশের newspaper ওয়ালাদের মতন অসচ্চরিত্র লোক আর নাই। কেন না বাংলার কাউন্সিলে পর্য্যন্ত তাদের বিরুদ্ধে resolution কোরে তাদের অসাধুতা নিবারিত কোরতে হয়েছে।

Mr. PRESIDENT: Amendment moved: that in the third line the words "in the newspapers" be omitted.

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*An authorised English translation of this Bengali speech will be found in the Appendix.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, the effect of the amendment would be that it would rather strengthen the original resolution. The condition would extend to all classes of advertisements including newspapers; so, the effect of the amendment is not merely negative.

With regard to the proposal contained in the resolution, I think I am in full sympathy with its object but I may, speaking for myself, sound a note of warning that there is a danger of going too far in this direction. If we think that our boys and girls will be spoilt by seeing cinema pictures of a sensational character and if we think that we can save them by insulating or isolating them from these forms of entertainments, I think there is a danger of driving them to worse things than these. Of all forms of roads to ruin, cinema is the least injurious. We are living in modern times and we cannot escape the influence of our environments. I will not labour the point further and will leave it at that.

Then, Sir, the resolution is vaguely worded. The hon'ble mover apprehends that our boys and girls may catch "immoral" ideas. That is rather vague. The standard of immorality is quite personal and nobody can say what would encourage "immoral" ideas and what would not. I was shocked to learn in the course of the last 24 hours that there are honourable members in this House who have never seen a cinema film. For some of them this may have been quite accidental. But there is one gentleman, for whom I have the highest respect, who maintains that it is his determination never to see these things. He has never been to a theatre and has never seen a cinema picture and that honourable gentleman is no other than our respected Khan Bahadur Saiyed Muazzamuddin Hosain. To him every cinema picture would encourage immoral ideas. So, Sir, there should be a limit somewhere. In a resolution of this character, we are not tied down strictly to the logical or literary meaning of expressions. I think, I should in the circumstances, support the resolution with these remarks.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Sir, I fully support the resolution which my friend Rai Keshab Chandra Banerjee Bahadur has so ably moved. He has first described the legal point of view as to how the Act was passed and what was its effect and secondly, about the control over publication. He has already said that the Government of Bengal has the control over the publication so far as the pictures that are being shown here in Bengal are concerned. It is a fact, and no one can deny it, that it is the fashion of the day that boys and girls do take pleasure in going to a cinema and they are practically making it a habit of going to a cinema at least once a week. It is also a fact that there are pictures which are objectionable from the moral point of view. The utility of cinema for the public

is very great. It has an educative value and at the same time it enlightens the mind of the people and imparts knowledge besides giving innocent pleasure and recreation. In Bengal, the film-owners, in order to attract people and for the purpose of making money, produce pictures in which love scenes are depicted and passions are excited. I have seen pictures in which certain classes of people are personified as the embodiment of all sins. There are pictures also which from the moral point of view might not be objectionable to other nations, but to us it is most objectionable. My friend has also suggested that there should be a strict control by the Board. The Board should strictly exercise their control to see that the pictures that are being shown are not used in the nature of indicating the path of vice to the young boys and girls. If the Board exercises proper control, then we shall have no more complaint to make. The composition of the Board should represent all classes of people.

Sir, with the amendment that has been moved by Maulana Saheb, I have full sympathy. In the newspapers, generally they do not publish pictures so indecent in character as is done in the cinemas.

But, Sir, there are other pictures also which appear in newspapers and which are not suitable to our country.

With these words, Sir, I fully support the resolution.

Mr. KAMINI KUMAR DUTTA: Mr. President, Sir, it is now recognised all the world over that the film industry in a useful industry and films are utilized as media for propagating ideas, and indeed it is a very useful medium of popular education. But at the same time, it is open to abuse. It is only to guard against the abuse of films that this resolution has been brought forward. I will not dilate much upon this resolution. It has already been said that there are films, produced in foreign countries and shown and exhibited here, which do not really propagate good ideas.

Sir, it is an accepted principle that the production and exhibition of films should be under the control of the administration of every country because it has got the potentiality not only of proving useful but it has also got the capacity of being injurious. Films are also being produced in the different provinces in India, but I must admit with regret that the films produced in Bengal have an abnormal tendency towards "Sex" appeal which ought to be checked (cries of "Hear, hear"). I would appeal to Government that the attention of the Bengal Board of Censors may be directed to this matter. Really, we cannot understand how some of these objectionable films escape the vigilance of the Bengal Board of Censors. We find that the producers know the ways and means of escaping the vigilance of the Board. The door through which they escape the vigilance of the Board ought to be closed and these films ought to be banned. In other countries, films

are shown not only to give recreation to the people in their leisure hours but also for spreading education amongst the masses. But here we are not doing it, though we are feeling the necessity for that. Films ought to be utilized for spreading educative ideas amongst the masses. Films should not be used only for the purpose of catering to the pleasure of a few persons who happen to see them or who happen to be present during their exhibition in the cinema houses. I would like to finish by saying that particular attention ought to be paid by the Bengal Board of Censors, so that objectionable films, whose only object is an appeal to the sex, might be checked. I have myself seen some films in which most unnecessarily some scenes are introduced which have no connection with the plot and which seem to have been introduced most unnecessarily with some half-nude pictures and other objectionable features. The object is apparent. So, I think that this resolution is a very useful one, and I support it.

***Khan Bahadur Maulvi MUHAMMAD IBRAHIM:** বায়স্কোপ এবং টকি এই গুলি বিজ্ঞানের অত্যাশ্চর্য্য আবিস্কার। এই গুলিদ্বারা ভাল ভাল কাজ করা যেতে পারে ইতিহাস, ভুগোল স্বাস্থ্যতত্ত্ব কত রকম ভাল জিনিষ প্রচার করা যেতে পারে। কিন্তু যখন ব্যবসায়ে নেমেছে তখন ব্যবসায়ীরা এই গুলিকে নানা রকম রংয়ে রঞ্জিত না করলে তাদের ব্যবসা চলে না।

যেসব ছবি দেখান হয় সেইসব ছবি দেখে তরল মতি ছেলে মেয়েদের মাথা ঠিক রাখা কঠিন। আমাদের district এ লায়লা মজনু বলে একটা "পিকচার" দেখানো হয়েছিল। তার পরে একটী বালিকা আত্মহত্যা করেছে। তাদের মধ্যে লায়লা মজনুর মত ভালবাসা ছিল। মা বাপ বিবাহ না দেওয়ায় সে আত্মহত্যা করেছিল। সেই আত্মহত্যা সিনেমার ফল। সিনেমার জন্য কত অনিষ্ট হচ্ছে সমাজে তাহার ইয়ত্তা করা যায় না। আজ কাল কলিকাতায় ভদ্রঘরের মেয়েরাও সিনেমায় নেমে পয়সা উপার্জ্জন করতে আরম্ভ করেছে। এতে আমাদের সমাজের কি পরিমাণ ক্ষতি হচ্ছে তাহা অনুমান করা যায় না। সুতরাং রায় বাহাদুর যে প্রস্তাব করেছেন আমার মনে হয় গভর্ণমেন্টের তাহা গ্রহণ করা উচিত।

সমাজকে সংযত রাখতে হলে সিনেমাগুলির উপর আরও প্রখর দৃষ্টি রাখা উচিত। স্কুল কলেজের ছাত্রেরা সিনেমায় গিয়ে মাথা ঠিক রাখতে পারে না। আমাদের মত বৃদ্ধেরাও কখনও কখনও মোহে পড়ে—বালক বালিকাদের কথা দূরের কথা। সুতরাং রায় বাহাদুর film সংযত করবার জন্য যে প্রস্তাব এনেছেন আমার মনে হয় ইহা অতি সঙ্গত প্রস্তাব এবং গভর্ণমেন্টের ইহা গ্রহণ করা উচিত। আমি এই প্রস্তাব প্রাণের সঙ্গে সমর্থন করি।

Mr. NARESH NATH MOOKERJI: Mr. President, Sir, I rise merely to make a short-notice amendment with your permission. The amendment is that after the word "newspapers", I would like to add "posters, magazines, periodicals and handbills".

I do not wish to waste the time of the House because there are many things which I should like to say and which perhaps I ought not.

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*An authorised English translation of the Bengali speech will be found in the Appendix.

Mr. PRESIDENT: I am sorry, Mr. Mookerji, the Chair is not in a position to accept the amendment.

Mr. NARESH NATH MOOKERJI: May I submit, Sir, that there is a chance of this resolution being accepted and this short-notice amendment is likely to considerably improve the resolution.

Mr. PRESIDENT: No, I am sorry.

The Hon'ble Khwaja Sir NAZIMUDDIN: Mr. President, Sir, I am sure that the House will be grateful to the Rai Bahadur for the learned discourse that he has given on the legal and moral history of the Film Board of Censors (laughter).

Rai KESHAB CHANDRA BANERJEE Bahadur: Because I have been long associated with it.

The Hon'ble Khwaja Sir NAZIMUDDIN: I believe, Sir, that if anybody had moved a resolution like this in America or in other foreign countries, he would be termed a crank (laughter), but I am sure the House will agree that the Rai Bahadur has dealt with this subject without disclosing what films he considers to be objectionable. There were neither any facts nor figures, nor any expression as to what particular films he considers to be objectionable as compared to others. Besides, his statements of facts are not all correct, especially as regards the composition of the Film Board of Censors, in so far as he alleges that there are only two Indians in the Board of Censors. Actually as things are at present, for the last two years the European representatives have been —one from the Chamber of Commerce, one from the Trades Association, Mrs. Cooper, a Deputy Commissioner of Police and the Commissioner of Police. So the European representatives are four in number. The Indian representatives are one representative of the Calcutta Corporation, one representative of the Education Department, the Director of Public Instruction, one Indian lady, the Vice-Chancellor of the Calcutta University and two other Indian gentlemen. So, actually there are six Indians as against four Europeans.

Then, Sir, as far as the films are concerned, they are very strictly censored, and therefore I have no hesitation in accepting the resolution. I claim, Sir, that actually the censoring here is as strict, if not stricter, than what it is in any other province in India. As regards the allegation that films that are not passed in America are allowed to be shown in India, that is, Sir, such a gross libel and shows so much ignorance of the actual state of affairs that I am surprised that a responsible member of this House should utter it.

Rai KESHAB CHANDRA BANERJEE Bahadur: That is not my opinion; that is the opinion of experts.

The Hon'ble Khwaja Sir NAZIMUDDIN: Our Board of Censors scrutinises every film very strictly, and during the last three years I have not seen any criticism of any film in any of the newspapers here. If there has been any criticism it has been because a certain film was banned which it thought the Board ought not to have done. There has been criticism about one or two films on the ground that they do not depict Indian character properly or depict Indian character in a manner which is not worthy or advisable. Those films were banned. Therefore, Sir, I just want to state very briefly that I believe there is no substance in the allegation that films are not properly censored. In fact, they are very strictly censored. We have received no complaints before this on this subject, and as far as the policy of Government is concerned it is absolutely in consonance with the spirit of the resoltuion of strict control over all films.

Rai KESHAB CHANDRA BANERJEE Bahadur: Mr. President, Sir, in the first place, I would like to state that I have no objection to the amendment of Maulana Akram Khan being accepted, as the deletion of the words "in the newspapers" would make the resolution more wide and would include all manner of advertisements.

Secondly, I should like to say a few words in reply to the remarks which the Hon'ble the Home Member has made. He has said that there is absolutely no foundation for the opinion that censoring in Bengal leaves much to be desired. I have not stated my own opinion but the opinion of experts. As a man of ordinary commonsense and as one who has been in touch with the public life of Bengal for a pretty long time, I have said what the public feel and feel very strongly on the matter. It has been pointed out that European experts have also given expression—unqualified expression—to their considered views that the censoring is not what it should be. This led to the appointment of the Indian Cinematograph Committee in 1927. The Committee, after examining a large number of witnesses and going through the whole question, made certain recommendations which were ultimately accepted by Government. But it is to be regretted that the situation remains the same even after a decade.

Then, Sir, with regard to the composition of the Bengal Board of Censors, I have mentioned what is provided in the Act and in the report of the Indian Cinematograph Committee, 1927-28 (page 107, paragraph 229). I do not know whether the Act has been subsequently amended so as to include the Vice-Chancellor of Calcutta University and other persons. If that has been done, well and good.

I cannot conclude without referring to the cheap jibe in which the Hon'ble Home Minister has indulged. He has tried to be

humorous at my expense, but unfortunately for him the humour has lost its charm. He has not been able to expose the hollowness of my contention. The sarcastic remark that "if such a resolution was moved in a European country, the mover would have been considered a crank" is devoid of any originality. True it is that the Westerners would not have appreciated a resolution like this. I have clearly demonstrated the ideological difference in the conception of morality between an Indian and an westerner and that answers Sir Nazimuddin's humour. Probably the atmosphere in which the Hon'ble Minister received his early "education" in England is responsible for his warped mentality.

I have nothing further to add but to commend the resolution, as amended, to the acceptance of the House.

Mr. PRESIDENT: The resolution before the House is: that this Council is of opinion that the Bengal Board of Film Censors should exercise stricter control in regard to films and the publication of film pictures in the newspapers which might have the effect of inculcating immoral ideas in the minds of young boys and girls.

Since then, an amendment has been moved that in the third line, the words "in the newspapers" be omitted. The question before the House is that the amendment be made.

(The motion was agreed to.)

The question before the House is: that this Council is of opinion that the Bengal Board of Film Censors should exercise stricter control in regard to films and the publication of film pictures which might have the effect of inculcating immoral ideas in the minds of young boys and girls.

(The motion was agreed to.)

Khan Bahadur ATAUR RAHMAN: Sir, Resolution No. 4 and Resolution No. 21, which is also practically the same, stand in my name. If you will permit me, Sir, I can move both the resolutions. The substance of the resolutions is practically the same.

Mr. PRESIDENT: That will not be in proper form. You may ask any of your friends to move it as an amendment.

Khan Bahadur ATAUR RAHMAN: Sir, I beg to move: that this Council is of opinion that an expert from Japan be invited by the Government to investigate into the cause of such poor outturn of paddy here and train Bengal peasants in the improved method employed by Japanese cultivators.

Sir, Government figures will show that our produce is gradually going down from 1906-07 to 1935-36. It was 1,234 lbs. per acre in 1906-07 and in 1935-36 it was only 765 lbs., whereas in Japan at

present the outurn is about 3,000 lbs. per acre and only a few years ago Japan's produce was not better than what it is now in Bengal. They have—by what methods I do not know—improved their agriculture to such an extent that they are getting about three times as much produce as we are getting in Bengal. So, it is quite possible that they will be able to help us and train our cultivators. We must find out what are the methods by which we can improve our cultivation. With this object in view, I beg to move this resolution for acceptance by the House and the Hon'ble Minister.

Mr. PRESIDENT: Resolution moved: This Council is of opinion that an expert from Japan be invited by the Government to investigate into the cause of such poor outturn of paddy here and train Bengal peasants in the improved method employed by Japanese cultivators.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I rise to support the resolution which has been just moved by Khan Bahadur Ataur Rahman. In doing so, I have only to quote a few figures to show how very necessary it is to improve the yield of our country in order to improve the economic condition of the agriculturists. Millions of our agriculturists are half-fed and half-starved. From the statistics which have been collected and of which I am in possession, I find the average area in the possession of an agricultural family in Bengal is 4·4 acres, but it is an accepted proposition that an economic area is at least 5 acres. Although the average is 4·4 acres, as many as 62 per cent. of the population hold less than 4 acres, and 41·9 per cent. of the population hold less than 2 acres. Even in the case of those who hold 4 acres, the experts say that their holding is uneconomic. When such is the case it may be easily imagined what will be the condition of those who hold 2 acres or even less. The only way and the best way of improving their economic condition is to devise means by which the yield of their lands may be increased substantially. Government has been trying to incerase the yield for so long and the Agricultural Department is doing its very best. So far as I know, the Agricultural Department also admit that all that they can do is that if improved seeds are accepted and are introduced in all the lands, they can incerase the yield only by 5 per cent. That is not at all an appreciable increase. We want the increase to be substantial in order that the people may have their *dal-bhat* problem really solved. In Japan, from the statistics just quoted by my friend, we find that 2,900 lbs. is the usual out-turn, whereas here it is only 765 lbs. Even in China, the yield is about 40 maunds. According to the Government statistics, it is 18 maunds here but according to our experience it is not more than 15 maunds. It will be criminal and a sin not to do anything to increase the yield of paddy in this country, knowing the poverty of our people and knowing at the same time that there are other countries which

grow paddy and which grow 3 times the amount of paddy per acre that is grown in Bengal. Bengal is said to be proverbially very fertile. But how is it that in this fertile province we cannot grow more than half of what is grown in China or one-third of what is grown in Japan? Therefore, it is absolutely necessary that we should seriously consider why the yield in other countries is so high and the yield in our country is so low. Therefore, the resolution is moved that an expert be brought from Japan in order to show us their methods of cultivation so that our cultivators may benefit by introducing them.

Sir, with your permission, I wish to move an amendment. Instead of bringing an expert from Japan, we may send experts from here for enquiring into the Japanese methods and coming back with facts and figures, so that we may be able to introduce those methods here in Bengal. If my amendment is accepted, the resolution will read as follows:—

This Council is of opinion that an expert or experts from here be sent to Japan to investigate into the cause of such poor outturn of paddy here and train Bengal peasants in the improved method employed by Japanese cultivators.

With these remarks, I commend the amended resolution for the acceptance of the House.

Mr. PRESIDENT: Amendment moved: That for the words "an expert from Japan be invited" the following words be substituted—"an expert or experts from here be sent to Japan".

Mr. H. C. C. MACKAY: Sir, we have heard the reasons in support of the resolution moved by Khan Bahadur Ataur Rahman, and I cannot help but feel that full credit has not been given to the recommendations of the Enquiry Committee whose report on Bengal paddy and rice has very recently been published by the Department of Agriculture. That Committe was primarily set up to investigate the problem of improving the price of paddy in so far as this factor affects the margin of profit to the grower.

It is significant, however, that the Committee has thought fit to exceed its terms of reference and to devote a certain portion of its report to the basic and important question of increasing the quantity and the quality of paddy grown in this Province, and the report indicates the means by which this end might be achieved.

That Committee levels some criticism at the Department of Agriculture, in that their work to date has in certain directions been inadequate, and even perfunctory, but their criticism is qualified by the acknowledgment that the department has hitherto been lacking in organisation, a deficiency brought about by a paucity of funds.

I shall probably not be far out if I say that the report—in its reference to paddy cultivation—does not provide news for the Department of Agriculture.

I have little doubt too that the lines along which that department are working are not at variance with the finding of the Committee.

If this is so, it remains only to find a means whereby the Department of Agriculture can more rapidly extend the scope of its activities.

There is no shadow of doubt that there is considerable room for improvement in the yield per acre of rice in this Province. I have not seen any recent figures, but the records of just a few years ago are illuminating. Reducing the crop per acre in Bengal to a unit of 1, we find that the unit in the United States of America is 2½, in Japan 3¼, in Italy 5¼ and in Spain as much as 6¼—compared with Bengal's 1.

If it is agreed therefore that it is necessary, or even desirable, to seek the assistance of an expert from Japan or to send our expert there, the figures I have just given to you might well argue that Japan itself still has a lot to learn in the cultivation of paddy; but I do not hold that these figures have any real significance unless one has a knowledge of the extent to which nature and science have separately made their contributions to the results indicated.

I maintain therefore that it would be more practical for an expert from Bengal to study conditions in a country having a high unit of production than it would be for an expert from outside India to investigate conditions in Bengal.

To my mind, however, it would be both premature and unfair, either to call in or send out an expert, until the Department of Agriculture has been afforded a proper opportunity of proving itself, and it seems that it cannot do so until it is sufficiently supplied with funds.

I do not deny that benefit is likely to be obtained by deputing an expert to study rice cultivation outside India, but I do feel that the expenditure which would be incurred should be reserved and that the attention of the Government should be directed towards the more rapid development of the Agricultural Department. In the light of these remarks, I beg to oppose the resolution.

The Hon'ble Mr. TAMIZUDDIN KHAN: Mr. President, Sir, I am thankful to my friend, Khan Bahadur Ataur Rahman, for drawing the attention of Government to this important matter. It is not that Government has not been alive to this matter already. This is a very simple and fundamenal question, and it has been engaging the attention of Government for a very long time. Yet the reiteration of an important matter like this has its own usefulness and from that point of view, I think that Khan Bahadur Ataur Rahman has done a service

by drawing the attention not only of Government but of the House and the public outside to this question. In fact, he saw me over this question sometime ago, and we had a frank discussion over this.

It will be well to remember that the conditions in Bengal are peculiar in certain respects, and as far as I know the conditions in Japan are different in many ways from those prevailing in Bengal. The natural conditions prevailing in Japan cannot be transported from there to Bengal. But there are certain other conditions, namely, the means and method of cultivation they employ. It may be of use to apply our mind to that and to investigate whether those can be usefully and profitably employed in Bengal also.

We know, Sir, that Japan has been using scientific methods to a far larger extent than we have been able to do hitherto. They make extensive use of human excreta. They also make extensive use of other fertilisers. We have not been able to do so to that extent. But we should also not forget that the use of fertilisers can be made to an extent where it has led to diminishing returns gradually and in Japan I hear they have reached the limit. The cost of production there has increased to such an extent that the cultivators there, I hear, are not making that amount of profit which they had been making sometime ago. Therefore, there has to be a limit to the use of fertilisers also. One fact seems to be rather interesting. In spite of all the improved methods that Japan employs, Japan is not able to produce enough for its own consumption. Japan also imports rice from other countries. As far as figures are available, during the quinquennium ending 1937-38, Japan imported as much rice from elsewhere as the whole of India did during the same period. However, there is no gainsaying the fact that Japan is far more advanced scientifically than Bengal.

There is also another great drawback. In spite of all our good wishes, we have not been able to make primary education free and compulsory in Bengal. That is a very great factor. You know, Sir, that our cultivators are very conservative, and naturally so. I think cultivators in all countries are conservative. If the conservatism of these illiterate people has to be broken, they have to be given a very liberal education. So far as Bengal is concerned, we have not been able even to give them the elements of education. Therefore, it is not to be expected that scientific method can be employed in Bengal with that ease with which it can be employed in Japan or Holland or other advanced agricultural countries.

My honourable friend, Mr. Mackay, has drawn attention to the fact that the Paddy Enquiry Committee had been recently sitting and they have just submitted their report. The report has not yet been examined by Government; it is under examination. Government will have to take steps after the recommendations of that committee have been examined. But I think, Sir, this matter is of very vital importance. Paddy, to my mind, is the most important crop of Bengal, and

the out-turn is obviously very low. Therefore, if by some means we can increase the out-turn, it will be of great service not only to the poor peasants of Bengal but to the country as a whole. Therefore, Sir, I think we should not throw away any useful suggestion that may be given to Government for investigating into matters with a view to find out if the yield of paddy in Bengal can be increased. I accept the suggestion of my honourable friend that we may usefully send an expert from here to Japan. An expert from here to Japan will be more useful than the importing of a Japanese expert to Bengal, because if we send a man from here who is conversant with the conditions prevailing in Bengal, it will be easier for him to make a comparative study of the conditions of the two countries, and when he comes back he will be an asset to us for the whole of his normal career. I think, therefore, that this resolution, in the amended form, may be accepted.

Mr. KADER BAKSH: Sir, I have consulted both the Khan Bahadurs who are sitting just to my right. My amendment does not change the character of the resolution but it makes it more clear. I want to put in the words "high out-turn of paddy there", in place of the words "poor out-turn of paddy here", in lines 2 and 3 of the resolution. It will make the resolution more clear. I have consulted both of them and they have accepted my amendment.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: It is only a change of phraseology and language, Sir.

Khan Bahadur ATAUR RAHMAN: Sir, I accept the amendment.

Mr. PRESIDENT: Order, order. The original resolution was: "This Council is of opinion that an expert from Japan be invited by the Government to investigate into the cause of such poor outturn of paddy here and train Bengal peasants in the improved method employed by Japanese cultivators".

Two amendments to this resolution have since been moved—one by Khan Bahadur Saiyed Muazzamuddin Hosain which wants to substitute the words "an expert or experts from here be sent to Japan" in place of the words "an expert from Japan be invited; and the other by Mr. Kader Baksh to the effect that the words "high out-turn of paddy there" be substituted in place of the words "poor out-turn of paddy here".

Now, the question before the House that the amendments be made.

(The question was agreed to.)

Mr. PRESIDENT: The question before the House is the resolution as amended, namely, that this Council is of opinion that an expert or experts from here be sent to Japan by the Government to investigate into the cause of such high out-turn of paddy there and train Bengal peasants in the improved method employed by Japanese cultivators.

The resolution as amended was agreed to.

Adjournment.

The Council then adjourned till 2-15 p.m. on Monday, the 27th November, 1939.

Members Absent.

The following members were absent from the meeting held on the 24th November, 1939:—

(1) Mr. Nur Ahmed.

(2) Khan Bahadur Rezzakul Haider Chowdhury.

(3) Khan Bahadur Syed Muhammad Ghaziul Huq.

(4) Dr. Radhakumud Mookerji.

(5) Rai Bahadur Satis Chandra Mukherji.

(6) Khan Bahadur Mukleswar Rahaman.

(7) Khan Bahadur Kazi Abdur Rashid.

(8) Mr. J. B. Ross.

(9) Mr. Krishna Chandra Roy Chowdhury.

(10) Rai Sahib Jatindra Mohan Sen.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Monday, the 27th November, 1937, at 2-15 p.m. being the third day of the Third Session, pursuant to section 62(2)(a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Recruitment of Secretariat clerks.

19. Rai Bahadur MANMATHA NATH BOSE (on behalf of Raja Bhupendra Narayan Sinha Bahadur, of Nashipur): (*a*) Will the Hon'ble Minister in charge of the Finance Department be pleased to state whether recruitment for the posts of Secretariat clerks, both in the Upper and Lower Divisions, is made by competitive examinations held by the Public Service Commission of Bengal? If so, will he be pleased to state whether the subjects of examination for the recruitment of such clerks have been prescribed in consultation with the different administrative departments for whom such recruitments are made?

(*b*) Is he aware that the subjects that are being examined, are practically of no use for the departments concerned?

(*c*) Is he aware that men to be recruited for such services must be conversant with indexing, recording, precis-writing and drafting, proof-reading and proof-correction? If so, will he be pleased to state whether any questions on these subjects are set by the Public Service Commission for testing the efficiency of the candidates for being recruited as clerks of the Secretariat Departments?

(*d*) Is he aware that most of those subjects have been made compulsory in the examination held by the Federal Public Service Commission for recruiting assistants in the Imperial Secretariat of the Government of India?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Mr. Nalini Ranjan Sarker): (*a*) Yes. The subjects of examination have been prescribed in consultation with the Public Service Commission, Bengal, as required under clause (*a*) of

sub-section (3) of section 266 of the Government of India Act, 1935, and rule 2(i) (c) of the Rules to regulate the manner in which the duties of the Public Service Commission should be performed.

(b) and (c) The examination is not designed to secure persons who are already trained in Secretariat work but persons whose general education and intelligence give ground for the expectation that they will make efficient clerks. Precis writing is one of the subjects prescribed for the clerkship examination.

(d) I understand that the syllabus for the examination held for recruiting assistants in the Imperial Secretariat of the Government of India does not differ materially from the syllabus of our clerkship examination. The only additional subject prescribed for the former is drafting. Indexing, recording, proof-reading and proof-correction do not appear in the syllabus of either of the two examinations.

Bonus for settlement kanungos.

20. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: (a) Will the Hon'ble Minister in charge of the Revenue Department kindly state whether the question of giving bonus to the settlement kanungos at the time of their retirement has been considered?

(b) What is the final decision of Government on the matter?

MINISTER in charge of the REVENUE DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy:) (a) Yes.

(b) Under the Government orders issued in 1935, settlement kanungos, who retired or were discharged on or after the 4th September, 1935, or were alive on that date after retirement or discharge before that date, were granted a gratuity of Rs. 100 for every year of service up to the 28th February, 1925, plus a gratuity of Rs. 25 for every year of service thereafter. Government have since decided to grant those kanungos, who had been prematurely discharged due to the reduction of the programme of work, an additinal gratuity equivalent to the difference between the gratuity they are entitled to under the orders of 1935 and the gratuity they would have been entitled to if they had been retained in service up to the age of 55, subject to the proviso that the additional gratuity should not exceed the gratuity earnable by an additional 5 years' service.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is it not a fact that it was only on the definite understanding that the whole question of bonus to the kanungos should be more sympathetically reconsidered that the resolution about remuneration to the kanungos of one month's pay for every year of service was withdrawn?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, Sir.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: How is it then that the question has not at all been sympathetically considered? It is only the question of those who have been prematurely retired that has been reconsidered? The question of others who retired ordinarily has not at all been considered?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The Government considered the whole question, if I may say so, sympathetically and came to this conclusion. Of course, the honourable member is entitled to put his own interpretation.

Khan Bahadur NAZIRUDDIN AHMAD: Is it not a fact that a Committee was appointed to go into the whole question?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: No, Sir.

Epidemic of cattle disease.

21. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: (*a*) Is the Hon'ble Minister in charge of the Revenue Department aware that there was a serious epidemic of cattle disease in Ashtagram thana of Mymensingh district?

(*b*) Is he aware that cattle worth nearly a lakh of rupees died of epidemic during the current year?

(*c*) Is he aware that money-lenders having stopped giving loans, cultivators of this thana are in great difficulty in replacing their dead cattle?

(*d*) Does the Government propose to grant agricultural loans liberally in this area with the least possible delay to help the agriculturists to replenish their cattle wealth?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) Yes. Such epidemic breaks out almost every year after the rains.

(*b*) No. The loss is estimated between Rs. 20,000 and Rs. 30,000 only.

(*c*) Yes.

(*d*) A sum of Rs. 45,000 has already been allotted to the Subdivisional Officer, Kishoreganj, for distribution amongst the agriculturists of this area for the purchase of cattle.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is the Hon'ble Minister aware that in the northern fields of Ashtagram alone 400 buffaloes worth Rs. 40,000 died of epidemic?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: That is not our information. I would refer the honourable member to the answer to question (*b*).

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Does the Hon'ble Minister mean to say that there was no abnormal epidemic this year?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, Sir.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is the Hon'ble Minister aware that doctors were sent there months after the epidemic had stopped, to give injections?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: As I have stated, every year epidemic breaks out after the rains. Sir, it is all a question of degree. Perhaps it was slightly more serious this time than in previous years but it was nothing abnormal; that is what I maintain.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Are we to take it that the Hon'ble Minister does not keep proper information of these things?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I entirely repudiate the suggestion that the Government does not keep any information. Rs. 45,000 has been sanctioned, and I hope the honourable member does not assume that the money has been sanctioned without information.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is Rs. 45,000 sanctioned every year normally? Or is it only this year that this amount has been sanctioned?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, the money that is required by the agriculturists depends on their condition in a particular year and it may very from year to year.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: But it is definitely stated in answer (*d*) that this amount has been allotted

through the Subdivisional Officer, Kishoreganj, for distribution amongst the agriculturists of this area for the purchase of cattle and and not for other things.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It was necessary this year for that purpose and it might not have been necessary in the past.

Land Revenue Commission.

22. Mr. LALIT CHANDRA DAS: (*a*) Will the Hon'ble Minister in charge of the Revenue Department be pleased to state whether it is a fact that Sir Francis Floud, Chairman of the Land Revenue Commission, Bengal, has intimated to the Government of Bengal his inability, on account of the war, to come to India from England to resume the work of the Commission? If so, what is his inability due to? Has he joined the colours?

(*b*) Since his appointment as Chairman, how much money did Sir Francis Floud draw on all heads? Had he to be paid also for his journey to England?

(*c*) Is it a fact that there was an insistent demand for a capable Indian Chairman for the Commission before Sir Francis Floud was appointed?

(*d*) When is the Government going to replace him and by whom? Does the Government propose to appoint an Indian in his place?

(*e*) When is the Land Revenue Commission going to sit again and when is it expected to finish its labours? How many sittings had it so far and how many places and what places had it visited so far?

(*f*) What has been the total expenditure so far incurred by the Government for this Commission? And what is the Government's estimate of the likely costs for this Commission?

(*g*) Is it intended to nominate three more members to this Commission? Is it true that one Namasudra and two Muslim members will be added to it?

(*h*) Does Government propose to take the sense of the Legislatures if this Commission, or further addition of any members to this Commission, is any more wanted?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) No.

(*b*) Rs. 36,157-12-10 including his passage money to England.

(*c*) There was a demand from some quarters to this effect.

(*d*) and (*h*) Do not arise.

(e) The last sitting of the Commission took place on the 16th November, 1939, and it is expected that its labours will be finished by April next. Last season there were altogether 43 sittings of the Commission at Calcutta and they toured the district of Mymensingh and the Province of Madras and are now on tour in the Punjab.

(f) The expenditure incurred up to September, 1939, amounts to Rs. 1,08,356 and the ultimate expenditure is estimated at Rs. 3,31,368.

(g) Yes. The appointments have been published already.

Promotion of clerks in the Burdwan Collectorate.

23. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: (a) Will the Hon'ble Minister in charge of the Revenue Department kindly state whether some interpolations were made in the Gradation List of clerks in the Burdwan Collectorate whereby the name of a lower grade clerk was placed higher up without any authority?

(b) Is it a fact that the Collector of Burdwan took no action when the fact of such interpolation was brought to his notice?

(c) Is it a fact that an appeal was preferred by the persons adversely affected by such interpolation and the Commissioner ordered the Gradation List to be recast showing each clerk's name in its proper place? Was the said order of the Commissioner upheld by the Board of Revenue?

(d) Is it a fact that in spite of the finding of the Commissioner and the Board that there are unauthorised entries in the Gradation List, no step has been taken to find out the persons responsible for such entries and that no punishment was inflicted on anyone?

(e) Do the Government propose to order a sifting enquiry in the matter with a view to punish the person or persons responsible for such interpolation?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (a) On the orders of the Office Superintendent, a correction was made in the list of names by taking into account the probationary periods of clerks.

(b) The Collector considered that the action of the Office Superintendent was correct and so refused to interfere with it.

(c) There was an appeal before the Commissioner against the inclusion of the probationary periods towards the length of service of a clerk. The Gradation List was ordered to be recast by the Commissioner excluding the probationary periods.

There was an appeal to the Board, but the Commissioner's order being final, the appeal was withheld by the Commissioner.

(*d*) The Commissioner remarked on the unauthorised correction in the list by the Office Superintendent, but passed no order about punishment. The correction was made in 1933 and the Office Superintendent, who ordered the correction, left the district long ago. No *mala fide* intention was found. As none else was responsible for the correction, no action was needed.

(*e*) No.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is the Office Superintendent competent to make corrections without written orders from the Collector?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The Collector did not take an exception to it. So, I assume that an Office Superintendent is competent.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: It appears that the Commissioner held that the correction was unauthorised. What does "unauthorised" mean?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: "Unauthorised" means that he should not have included the probationary period.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Does it not mean that he had no authority to make changes?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: No. What the Commissioner did was to exclude the probationary period. He did not take an exception to the corrections actually made.

Khan Bahadur NAZIRUDDIN AHMAD: Is it not a fact that the Commissioner found that the correction was unauthorised?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: That is what has been stated.

Khan Bahadur NAZIRUDDIN AHMAD: If it is unauthorised, is it reconcilable with answer (*a*) that the correction was proper?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: As I just explained, "unauthorised" means that the inclusion of the probationary period was unauthorised. Only on that point it was unauthorised.

Khan Bahadur ATAUR RAHMAN: In the reply to paragraph (*d*), it is stated that the Superintendent left the district long ago. Did he die or did he retire from Government service so that no action was taken or has he been transferred?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It happened in 1933 as it would appear from the reply and certainly the previous Government did not think it necessary to take any action. I do not think that the present Government can answer why the previous Government did not take any action on this point.

Khan Bahadur NAZIRUDDIN AHMAD: With regard to answer (*b*), how long after the unauthorised correction was made did the Collector refuse to interfere?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I ask for notice.

Promotions for filling up leave vacancies in the Burdwan Collectorate.

24. Khan Bahadur ATAUR RAHMAN: (*a*) Will the Hon'ble Minister in charge of the Revenue Department be pleased to state if it was the usual practice in the past to fill up the leave vacancy in a superior grade occurring in any section of the Burdwan Collectorate from the senior men of the same section?

(*b*) If the reply to part (*a*) be in the affirmative, will the Hon'ble Minister be pleased to state whether this principle is being deviated from by the present Collector?

(*c*) If so, in how many cases has such departure been made?

(*d*) What are the circumstances for such deviation?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) No. There was no definite practice. On the contrary it appears that the best available man was promoted, except when the leave was for a very short period.

(*b*) to (*d*) Do not arise.

Debt Settlement Boards.

25. Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister in charge of the Co-operative Credit and Rural Indebtedness Department be pleased to state—

(*a*) whether the establishment of Debt Settlement Boards have proved an utter failure in bringing about economic rehabilitation of the agriculturists;

(b) whether it is a fact that these Boards have killed rural credit in Bengal; and whether the Government is aware that the agriculturists find it extremely difficult to get money in the mufassil to meet the needs of their cultivation owing to the operation of the Agricultural Debtors Act;

(c) how many ordinary and special Debt Settlement Boards are now at work in Bengal, and whether many cases were instituted before them and how many of the cases they have so far disposed of;

(d) whether it is a fact that instalments are allowed in many cases extending up to 20 years or more;

(e) what is the total sum of money for payment of which these Boards have so far given awards and what was the total amount of the creditors' claims;

(f) whether there is any adequate machinery and sufficient authority given to these Boards for realising the awarded money for the creditors;

(g) whether it is a fact that these awards remain awards without realisation and that settlement is really taken by the debtors as a wiping off of their debts;

(h) whether these Debt Settlement Boards have got authority to try and dispose of debts under usufructuary Mortgage Boards;

(i) whether Government is aware that it was found in many cases that these Boards entertained such cases which the Appellate Court found they had no jurisdiction to try;

(j) whether it is a fact that most members of the Debt Settlement Boards do not know anything of elementary law;

(k) whether Government proposes to transfer the work of the Debt Settlement Boards to the Civil Courts;

(l) whether Government is aware that some Debt Settlement Boards, with a view to avoiding appeals against their decisions, falsely note in their orders that the awards have been given on a compromise between the parties in the suit;

(m) whether the Government proposes to take steps to prevent such things;

(n) if the answer to part (l) be in the negative, whether the Government proposes to make an enquiry in the district of Tippera in the Special officer's court and in special courts of other districts to satisfy itself of the truth of the allegation; and

(o) when is the Agricultural Debtors Act due to expire and whether it is the intention of Government to give it a further lease of life?

MINISTER in charge of the CO-OPERATIVE CREDIT and RURAL INDEBTEDNESS DEPARTMENT (the Hon'ble Mr. Mukunda Behary Mullick: Full details and figures asked for are not immediately available; these are being collected and the hon'ble member will be informed as soon as the information is ready.

Mr. LALIT CHANDRA DAS: When did the Hon'ble Minister receive notice of this question?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: It was received on the 10th of November last.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state when the details and figures asked for in this question would be made available to this House?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: It is very difficult to give a definite date, but I have said that full details and figures which the question requires would be collected as soon as possible and supplied to the House.

Mr. LALIT CHANDRA DAS: Will these figures be available this session?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I hope so, Sir.

The Bengal Money-lenders Bill, 1939.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I beg to move that the Bengal Money-lenders Bill, 1939, be taken into consideration. I do not like to deliver any long speech explaining why this Bill should now be considered by the House. The subject has been before the public for more than two years and it has already been considered by the Lower House which took about three months' time to pass it. Sir, the country has been insistent in demanding that this measure should now be passed without delay. Any delaying move, I believe, will be resented by the people at large. I would, therefore, request my friends in this House to see that the Bill is passed as early as possible.

Mr. PRESIDENT: May I take it that *previous sanction* of the Governor has been obtained?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Yes, Sir.

Mr. PRESIDENT: Motion moved: that the Bengal Money-lenders Bill, 1939, be taken into consideration.

Rai SATIS CHANDRA MUKHERJI Bahadur: Sir, may I add some formal words to the amendment which stands in my name? I want to say that in view of the abnormal world condition brought about by the European war, the consideration of the Bill and the debate in respect of the Bill be adjourned. I want to introduce the words "debate in respect of the Bill be adjourned".

Mr. PRESIDENT: I want to be satisfied as to how your motion is in order. You want that in view of the present world situation, the consideration of the Bill be held up; is it not?

Rai SATISH CHANDRA MUKHERJI Bahadur: Instead of the words "held up", I want to introduce the word "adjourned".

Mr. PRESIDENT: I am sorry, I have to rule your motion out of order because, an amendment having a negative effect cannot be allowed to be moved.

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I beg to move that the Bengal Money-lenders Bill, 1939, be circulated for the purpose of eliciting opinion thereon.

Mr. PRESIDENT: The honourable member in his motion has given no date by which opinion is to be elicited. Rule 53(2)(*a*) of the Bengal Legislative Council Procedure Rules says—"be circulated for the purpose of eliciting opinion thereon before a date to be mentioned in the motion". You have given no date; so your motion is also out of order.

The same objection applies to the circulation motion of Rai Satis Chandra Mukherji Bahadur. He also has given no date. His motion runs as follows: That the Bill be circulated for the purpose of eliciting opinion thereon. So, this too is out of order.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I have not got a copy of the Order Paper. However, I do not wish to move the amendment which stands against my name.

Mr. PRESIDENT: Your amendment also would have been out of order, because in it the quorum has been fixed at 16. According to section 66 of the Government of India Act, 1935, the quorum should be fixed at 10.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Mr. President, Sir, I beg to move that the Bill be referred to a Committee of the whole Chamber with instructions to submit their report by the 31st of January, 1940.

Sir, the procedure that I am going to propose is a new one. It has not been introduced not only in this Chamber but I think in any Legislature in India. This has been adopted from the procedure followed in the British Parliament. So long we have followed the procedure, namely, to send a Bill for eliciting public opinion or for referring it to a select committee, but my proposal is that the Bill be referred to a Committee of the whole Chamber. That means that the whole House should consider the Bill according to the Committee procedure.

Sir, there is one advantage in the procedure that I have proposed in my motion, namely, that the House can freely discuss the matter. Formal discussion in the House entails several hindrances, namely, that a speaker cannot speak more than once and he cannot move any amendment that he may wish to do, but if the Bill is referred to a Committee of the whole House, then any member can speak once, twice or several times, and there are also other advantages. After the discussion is over and after the report of the committee is submitted, the House will take only a few hours to dispose of the Bill. That is another advantage.

Further, on several occasions, the report of the select committee has been found to be useless. There were occasions when the House had thoroughly altered the character of the Bill as recommended by the select committee. And thus all the recommendations, labour and money that had been spent went for nothing. On the other hand, if the Bill be referred to a Committee of the whole House, there will be no cause for anxiety on that point, and our labour will not be wasted in that way. If one looks at the present Bill which has been passed by the Assembly, one would find that the Bill that had been recommended by the select committee had been so altered that it is very difficult for one to recognise the Bill itself. Thus, their labour and energy had been wasted away. Sir, I do not want to go into the details or merits of the Bill, but I think there are very important points which require the considered opinion of the whole House and which require minute and detailed examination. For example, the first point to which I want to draw the altention of the House is that retrospective effect has been given to the provisions of the Bill. It is, Sir, against all accepted maxims of jurisprudence and law. When a legislature passes any measure, it should take special care that it does not upset the settled law and also the contracts under the law that was in force and in obedience to which the people have deliberately and voluntarily made agreements which they have solemnly undertaken to fulfil. If the sanctity of a contract be violated, a large number of transactions, in

fact innumerable in number, will be swept away by the proviso of the proposed Bill and it will create a havoc amongst the creditors and borrowers and give rise to numerous litigations.

The second point to which I wish to draw the attention of the House is the provision about the re-opening of final decrees made in civil courts. That is, Sir, most dangerous. I do not know if the provincial Legislature has the power to do so. I think that it is only the Central Legislature which can do so. However, I am not a lawyer and so I cannot deal with this matter, but I find that this is also a question which requires more attention of the House.

Thirdly, Sir, in the Bill as passed by the Assembly, compulsory registration has been provided for. In other provinces, e.g., Madras, the United Provinces, Sind, Assam and Bihar, they have passed similar Bills about money-lending, but they have not introduced any clause regarding compulsory registration. But here a new method of compulsory registration has been provided for. This also requires our best attention.

Fourthly, Sir, I submit it is not justifiable to make an invidious distinction between banks and banks and one credit institution and another. There should be uniformity in law and no distinction should be made in that sphere.

Lastly, under the provision of the Bill, if a creditor fails to prove his case, his certificate will be cancelled and thereby all other transactions will be deemed to be null and void. This is unfair, unjust and against all principles of law and equity.

With these words, Sir, I commend my motion to the acceptance of this House.

Mr. PRESIDENT: Motion moved: that the Bengal Money-lenders Bill, 1939, be referred to a Committee of the whole Chamber with instructions to submit their report by the 31st of January, 1940.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I rise to oppose the motion. The reasons which my friend the Raja Bahadur has given in support of his amendment are exactly the reasons that prompt me to oppose it. He says that if the matter is referred to a Committee of the whole House, it will not be bothered by any Rules of Procedure; they can do whatever they like. All the members will be assesmbled in one place and then do exactly what is done in a large House without any rule. So, the difference between him and myself is this that in my opinion we should be guided by certain rules of procedure and there should be cut and dried amendments which everybody must know beforehand and then fight over them before coming to some conclusion. But if the idea of my friend, the Raja Bahadur, is that all these formalities which have been adopted

in the past and which are being adopted everywhere are to be given the go-by, then I do not know how work can be done constitutionally. So, I hope, my friend will consider my point of view and withdraw the motion that he has moved. What I actually ask the honourable members of this Council to think of is this: this is a very big Bill and unless the amendments are actually tabled after full consideration of the motions, there is no hope of our considering and passing a measure of this nature. So, I hope, my friend, the Raja Bahadur, will withdraw his motion.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Sir, in view of what the Hon'ble Minister has said, I beg leave of the House to withdraw my motion.

Mr. PRESIDENT: I am to enquire if the House has any objection to leave being granted to the withdrawal of the motion.

(Cries of "no objection".)

The motion was then, by leave of the House, withdrawn.

Mr. PRESIDENT: Before I put the motion to the House, I must be satisfied that the *previous sanction* of the Governor in his discretion has been obtained. Under section 299(*3*) of the Government of India Act, 1935, "no Bill or amendment making provision for the transference to public ownership of any land or for the extinguishment or *modification of rights therein*, including rights or privileges in respect of land revenue, shall be introduced or moved in either Chamber of the Federal Legislature without the previous sanction of the Governor-General in his discretion or in a Chamber of a Provincial Legislature without the previous sanction of the Governor in his discretion." So, I must be satisfied before the matter is placed before the House that the previous sanction of the Governor in his discretion has been obtained.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: If you want to be satisfied fully, Sir, I will have to bring in the entire files of the last three years.

Mr. PRESIDENT: But you have not answered my query as to whether the *previous sanction* of the Governor in his discretion has been obtained?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, this is not a Bill introduced by a third party. This is a Bill which has emanated from Government and from the Governor himself. If I have to explain the procedure that has been adopted by the Government for bringing in a Bill of this kind, I must say that I shall have to start from the very beginning. I may explain to the Hon'ble President that this Bill originated from the Government and from His

Excellency the late Lord Brabourne. This Bill is the outcome of a Bill introduced in the Lower House, and it was then discussed in the Cabinet where the Governor himself was present

Mr. PRESIDENT: My difficulty is exactly there. I know that the Government has brought in this Bill. But the Government of India Act, 1935, says that no Bill of this nature shall be introduced in any Chamber of a Provincial Legislature without the *previous sanction* of the Governor in his discretion. I hope the Hon'ble Minister will understand the distinction between Government, the Governor and the Governor acting in his discretion. It is binding on the President, before he allows the motion to be put before the House, to see that no motion relating to a Bill of this nature is moved or introduced in this Council without the previous sanction of the Governor. Under the Governor's Rules also, I am bound to send this Bill for his previous sanction. They leave no option with me. Rule 6 of the Governor's Rules says:—

(*1*) "If notice is given of a motion to introduce a Bill or to move an amendment which, in the opinion of the President, cannot be introduced or moved save with previous sanction, unless such previous sanction has been intimated to him, the President shall, as soon as may be, after the receipt of the notice, refer the Bill or the amendment to the Governor, and the motion shall not be placed in the list of business unless the Governor has indicated to the President that the previous sanction required has been granted."

(*2*) "If in the opinion of the President any question arises whether a Bill or amendment thereto is or is not a Bill or amendment which cannot be introduced or moved save with the previous sanction, he shall refer the question to the Governor, and the decision of the authority which would have the power to grant the previous sanction, if it were necessary, shall be final."

I think the Hon'ble Minister has failed to notice the distinction between terms "the Governor" and "the Governor acting in his discretion."

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, when the Government brings in a Bill, it is with the Governor's own permission and consent. We are not permitted to bring in a Bill on our own initiative, and that is why in every matter we say that "on the recommendation of His Excellency the Governor I move this." This is the usual formula. However, as the Hon'ble President wants the order in writing from His Excellency, if he will give me just one hour's time, I will bring that.

Mr. PRESIDENT: Let there be no misapprehension. The Hon'ble Minister in reply to my query told me that the *previous sanction* of the Governor had been obtained. Otherwise, I would have precluded any discussion on his motion in this House. The House, I am sure, has realised the point that the Governor in his discretion must give his sanction in certain important matters which are specifically reserved for the exercise by His Excellency of his discretionary powers, but I am afraid that the Hon'ble Minister has not appreciated the point that I want him to consider. He may now go and get the consent of the Governor. But that is a different thing. The point is—has he got the *previous sanction* of the Governor as contemplated under the section?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Yes, Sir.

Mr. PRESIDENT: Then, I take it that the sanction had been obtained before the motion for introduction of this Bill was made.

However, I adjourn the meeting for half an hour to enable the Hon'ble Minister to bring the necessary papers showing the previous sanction of the Governor in his discretion in regard to the motion which he made in the House to-day.

After adjournemnt.

Mr. PRESIDENT: Order, order. It seems that the Hon'ble Minister has not been able to come back with the papers. In my mind I have no doubt that the *previous sanction*, as the Hon'ble Minister assured us, must have been obtained. It is not a mere formality that I am insisting on being observed. It is a duty which is imposed on me as the President under the Government of India Act, 1935. And it is not a new procedure either. I find on a reference to the Council proceedings of 10th March, 1939, that in a similar matter the Hon'ble Home Minister showed a file to the President indicating that the previous sanction of the Governor was obtained. The law insists that the President should personally satisfy himself that the previous sanction of the Governor in his discretion has been obtained. However, as the Hon'ble Minister has not yet come back, I adjourn the Council till 2-15 p.m. to-morrow

Adjournment.

The Council then adjourned till 2-15 p.m. on Tuesday, the 28th November, 1939.

Members absent.

The following members were absent from the meeting held on the 27th November, 1939:—

(1) Mr. Humayun Reza Chowdhury.

(2) Khan Bahadur Rezzakul Haider Chowdhury.

(3) Khan Bahadur Syed Muhammad Ghaziul Huq.

(4) Rai Bahadur Brojendra Mohan Maitra.

(5) Dr. Radha Kumud Mookerjee.

(6) Mr. E. C. Ormond.

(7) Mr. J. B. Ross.

(8) Rai Sahib Jatindra Mohan Sen.

B. G. Press—1939-40—10224—750.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Tuesday, the 28th November, 1939, at 2-15 p.m. being the fourth day of the Third Session, pursuant to section 62(2)(a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Appointment in the Collectorate of the Burdwan district.

26. Khan Bahadur ATAUR RAHMAN: Will the Hon'ble Minister in charge of the Revenue Department be pleased to state—

(a) the various categories of clerks and menials which may be appointed by authorities subordinate to the Collector in each subdivision of the Burdwan district;

(b) the number of clerks and menials appointed by authorities subordinate to the Collector in each of the subdivisions of Burdwan between 18th March, 1939, when the decision of the Government relating to communal ratio in Government services came into force, and 15th September, 1939, stating the number of Muhammadans, Caste Hindus and Scheduled Caste representatives appointed and their percentages to the total appointments thus made;

(c) whether the Government decision relating to communal ratio in the services as embodied in Government of Bengal, Home Department, Memorandum No. 2599(22)A., dated the 9th August, 1939, has been communicated to the said appointing authorities in the said subdivisions; if so, on what date or dates; and

(d) when the orders referred to in paragraph (c) above were received by the Collector?

MINISTER in charge of the REVENUE DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) Subdivisional Officers of outlying subdivisions are competent to appoint menials only in their establishments.

(*b*) One temporary peon at Kalna was appointed. He is a Caste Hindu.

(*c*) Yes. On 2nd September, 1939.

(*d*) On 20th August, 1939.

Causes of floods.

27. Rai SURENDRA NARAYAN SINHA Bahadur (on behalf of Raja Bhupendra Narayan Sinha Bahadur, of Nashipur): Is the Hon'ble Minister in charge of the Communications and Works Department aware that the Government of India in the course of discussion of a resolution on the subject of the prevention of recurring floods in India stated, amongst other things, that it was the business of the Provincial Governments to investigate into the causes of such floods in their own Provinces and to apprise the Government of India about the conclusions of such enquiries? If so, will he be pleased to state whether the Government of Bengal has ever made any enquiry into the causes of such recurring floods and whether the Government has apprised the Government of India about their conclusions on the subject? If not, why not?

MINISTER in charge of the COMMUNICATIONS and WORKS DEPARTMENT (the Hon'ble Maharaja Srischandra Nandy, of Cossimbazar): I have seen the report of the discussion in the Central Assembly in 1924, in the course of which the statement referred to by the hon'ble member was made. From the purport of the statement, and from the trend of his speech in this House a few months ago, when the hon'ble member quoted it, I presume that he now wishes to know whether Government have ever endeavoured to ascertain whether Railway embankments caused flooding in certain areas. If that presumption is correct, the answer is in the affirmative, and I should like to add further that investigations are now proceeding in respect of several areas. The Provincial Government have recently asked a certain Railway Administration to provide a larger waterway at a specified point, and will certainly do so in any case where, after considering the advice of their experts and the views of the Administrations concerned, they deem it necessary in the public interest that such work should be done. Should the Administration refuse to carry out the desired work, the Provincial Government will make a reference to the Government of India.

The Road Development Fund.

28. Rai Sahib INDU BHUSAN SARKAR (on behalf of Raja Bhupendra Narayan Sinha Bahadur, of Nashipur): (*a*) Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state the total amount of money the Government of Bengal received from the Road Development Fund of the Government of India since the creation of the Road Development Fund up to the 31st October, 1939?

(*b*) Will he be pleased to state the total amount spent up to the date referred to above for purposes of road development in Bengal?

(*c*) Will he be pleased to state whether the total amount, which the Government of Bengal was entitled to receive from the Government of India, has been spent for the purpose or not? If not, what are the reasons for the Government of Bengal not being able to utilise the money for purposes of road development?

(*d*) Will he be pleased to state whether the Government of Bengal has appointed any Committee called the Road Development Committee on the lines of the Road Development Committee existing under the Government of India? If not, does the Government propose to appoint such a Committee on which both the Houses of the Bengal Legislature may be represented as the Houses of the Central Legislature are represented in the Government of India's Road Development Board or Committee?

(*e*) Is the Government of Bengal aware that when definite proposals of road schemes are brought forward by the members of the Central Road Development Committee representing Bengal, the Government of India only forwards the minutes of the proceedings of the Central Road Development Committee to the Provincial Government for taking action as they feel necessary? If so, will the Hon'ble Minister be pleased to state whether he has received any such proposals from the Government of India which were raised by the hon'ble member Mr. Jagadish Chandra Banerji, a member of the Council of State, during the period of 1930 to 1936? If so, what steps did the Government of Bengal take on their proposals? If no actions were taken, will he be pleased to state the reasons for not taking any action on the said proposals?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: (*a*) The Provincial Government have received about Rs. 1,10,50,000 from this source; in addition, a sum of about Rs. 31,39,000 representing this Government's allotments for 1937-38 and 1938-39 is held by the Government of India.

(*b*) Rs. 1,08,06,481.

(c) The principal reason for the inability of this Province to spend its total allotment during the first few years of the existence of the fund was that no comprehensive survey of its requirements in regard to roads had been made.

(d) There is a Provincial Board of Communications, consisting of representatives of groups of District Boards and others interested, which advises the Government in the matter of expenditure from the Road Development Fund.

(e) I have no information.

The Bengal Agricultural Debtors Act.

29. Mr. RANAJIT PAL CHOUDHURI: (a) Will the Hon'ble Minister in charge of the Co-operative Credit and Rural Indebtedness Department be pleased to state whether the Government have enquired about the effect of the Bengal Agricultural Debtors Act on rural agricultural credit?

(b) Is it a fact that the operations of the Bengal Agricultural Debtors Act have severely impaired agricultural credit in the rural areas and that the money-lenders, in anticipation of their transactions coming under the operations of the Act, have suspended giving credit to the agriculturists?

(c) If the replies to paragraphs (a) and (b) be in the affirmative, will the Hon'ble Minister be pleased to state what the Government has done or proposes to do to provide agricultural loans to the agriculturists?

(d) If the reply to paragraph (a) be in the affirmative, does the Hon'ble Minister propose to institute an enquiry about the effects of the Bengal Agricultural Debtors Act on agricultural credit?

(e) Will the Hon'ble Minister be pleased to state whether it has come to his knowledge that unnecessary and undue delay is often made in settling cases which come before the Debt Settlement Boards? If so, what steps have been taken to remedy these evils?

(f) Will the Hon'ble Minister be pleased to state to what extent the revenue of the Province has been affected by the operations of the Bengal Agricultural Debtors Act?

MINISTER in charge of CO-OPERATIVE CREDIT and RURAL INDEBTEDNESS DEPARTMENT (the Hon'ble Mr. Mukunda Behary Mullick): (a) and (b) Reports upon the state of rural credit are obtained from District Officers from time to time; but as I have stated in this House before, I do not consider that the Bengal Agricultural Debtors Act is either the sole or even the main cause of the contraction of rural credit.

(*c*) During the current year, Government have distributed over Rs. 36½ lakhs as agricultural loans, and in fulfilment of the assurance given during the last Budget discussions, Government advanced Rs. 13½ lakhs to the Provincial Co-operative Bank and thus has enabled Co-operative Societies to bring their total loans this year up to over Rs. 19½ lakhs.

(*d*) Does not arise.

(*e*) Complaints of a general nature to this effect are occasionally received; among other steps taken to facilitate more rapid disposal of cases Government have—

(*i*) issued leaflets in Bengali for distribution to all applicants explaining the procedure to be followed at each stage;

(*ii*) authorised simultaneous issue of all the preliminary notices;

(*iii*) reduced the quorum for transaction of routine business to one member;

(*iv*) simplified and speeded up the method of serving notices outside the jurisdiction of the issuing Board;

(*v*) encouraged the formation of additional Boards wherever necessary and Special Boards for dealing with all the debts of the members of Co-operative Societies; and

(*vi*) ordered that separate settlement for arrears of rent shall be made with the landlord as early as possible.

In addition, when complaints are received against specific Boards, local officers are asked to make an enquiry.

(*f*) This is entirely a matter of opinion.

Mr. RANAJIT PAL CHOUDHURI: With reference to answer (*e*), will the Hon'ble Minister be pleased to state when were the steps taken to expedite the disposal of cases?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Steps have been taken for some time now, and I believe, instructions have been issued on this point and also in regard to other matters for over a year. These instructions were not sent all at once; they are being sent from time to time, I remember, for over a year.

Mr. RANAJIT PAL CHOUDHURI: Will the Hon'ble Minister be pleased to state if it had any material effect?

The Hon'

Sir.

Mr. RANAJIT PAL CHOUDHURI: Has there been any improvement?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Certainly.

Mr. RANAJIT PAL CHOUDHURI: Is the Hon'ble Minister aware that in many of the interior debt settlement boards in the Sundarbans area, there are cases pending for over a year?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I had occasion to submit to the House that if specific instances are brought to the notice of Government, it would be possible to look into the matter then and there and that is what I have stated towards the end of my answer (*e*).

Khan Bahadur ATAUR RAHMAN: With reference to answer (*c*), will the Hon'ble Minister be pleased to state what is the total requirement of the Province for agricultural credit, I mean, for short loans to carry on agriculture by the agriculturists of the Province?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, it is a very difficult question for me to answer, for I am concerned only with the Co-operative Societies of the Province. So far as they are concerned, I have given the amount that was required this year.

Khan Bahadur ATAUR RAHMAN: Will the Hon'ble Minister be pleased to state what percentage these sums of 36½ lakhs and 13½ lakhs or 36½ lakhs and 19½ lakhs bear in relation to the total requirement of the agriculturists in this province? Does the Hon'ble Minister consider that this supply of credit is enough for the agriculturists?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: So far as this year is concerned, I believe, the needs of the agriculturists who are members of the Co-operative Societies were perfectly attended to. With regard to the needs of others, of course, they are met on the advice of the Collectors.

Mr. LALIT CHANDRA DAS: With reference to answer (*f*), will the Hon'ble Minister be pleased to state whether, as a matter of fact, payments of rent have been held up owing to applications being made to Debt Settlement Boards under the Bengal Agricultural Debtors Act?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Not "held up" really, but payment is stayed for some time. But we have promulgated definite rules as to how arrears of rent have got to be dealt with by these Boards. One of the rules is that payment of arrear rent has got to be made along with the application by the debtor.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state if Government is aware that owing to such applications, landlords are finding it difficult to make the usual payment of revenue in proper time?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I am very sorry, Sir, I am not aware of it.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to enquire about these facts?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: It is a matter which concerns my honourable friend, the Revenue Minister, and he may enlighten the House about the position of revenue.

Rai Sahib INDU BHUSAN SARKER: With reference to (c)(iv), will the Hon'ble Minister be pleased to state if any definite period has been fixed for repayment of the arrear rent?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: We have left it to the discretion of the Board. One particular matter has been definitely mentioned, viz., that one year's arrear has got to be paid at the time when the application is made. In this connection, I may also refer to the experience of my honourable friend who is also a member of a Debt Settlement Board at Faridpur as to what is his experience as a member of a Board.

Rai Sahib INDU BHUSAN SARKER: I may say that according to instructions given by the Debt Settlement Officer, sometimes 4 years have been fixed to clear up the arrears of rent; that is, the maximum is 4 years.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: It may be so, but I cannot exactly give the number of years that are fixed. We know that rent can be in arrears for 4 years. Under the Act, we have no power to reduce the principal amount of rent in respect of which arrears have got to be repaid. All that we have said is that so far as arrears of rent are concerned, they need not wait for final settlement till settlement is arrived at with regard to other debts. One particular point, as I have mentioned, is that one year's arrear of rent has got to

be paid at the time of the application. With regard to the rest, it is left to the discretion of the Board to suit the convenience of the landlord and the tenant.

Rai Sahib INDU BHUSAN SARKER: Will the Hon'ble Minister be pleased to consider that if a suit is instituted and it is continued for two years and after the institution of the suit, the period of two years' rent is included, it would be very difficult for the landlords to have their dues in proper time?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I submit that it is more or less a matter of opinion.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state whether Government would consider the desirability of withdrawing the power of the Debt Settlement Boards for dealing with the question of arrears of rent?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: No, Sir.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Is the Hon'ble Minister aware that in several Boards, the instruction regarding the payment of one year's rent at the time of the application has not been carried out?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I would have expected the honourable Raja Bahadur to have brought a specific case of that nature to the notice of Government, so that Government might have enquired into it.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state if it is a fact that Debt Settlement Boards are going to expire on the 31st December, 1939.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: No, Sir.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state how they are going to continue the Debt Settlement Boards?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: They will be continued under the Bengal Agricultural Debtors Act.

The licence for holding melas and fairs.

30. Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: (*a*) Is the Hon'ble Minister in charge of the Local Self-Government Department aware that a set of rules had been published under notification No. 7144M., dated the 21st December, 1937, in the *Calcutta Gazette*, dated the 23rd December, 1937, in page 2895 containing rules framed under section 414 (*c*) of the Bengal Municipal Act of 1932, for the purposes of the grant of licence for holding *melas* and fairs and the conditions for holding such *melas* and fairs?

(*b*) If so, will he be pleased to state whether the issue of the said notification *ipso facto* brought the rules in force in all the municipalities or whether it was left to the different municipalities of the Province to adopt by a resolution at a meeting of the Commissioners of the municipality the said rules for being applied to the respective municipalities.

(*c*) Was any permission or confirmation also required by the municipalities from the Government to bring into force those rules into their respective municipalities?

(*d*) Is he aware that a maximum fee of Rs. 50 has been fixed by the Government for being levied by the municipalities for the grant of a licence for holding a *mela* or a fair within the boundary of a municipality?

(*e*) Is it a fact that this fee can be fixed at the discretion of a municipality at a lower rate than the maximum rate of Rs. 50? If so, does the adoption of this rate require confirmation and publication in the *Calcutta Gazette*?

(*f*) Is he also aware of the fact that rule 2 (*1*) (*a*) has thrown the burden of responsibility for the supply of drainage, the supply of water, the supply of *methor* services, the maintenance of suitable latrines and urinals, collection and removal and disposal of refuse, supply of proper lights for the latrines in every part of *mela*, supply of suitable food and detection and immediate segregation of cases of infectious diseases, on the licensees who will be granted the licence by the municipality? If so, will he be pleased to state for what purpose the maximum fee of Rs. 50 *per diem* has been allowed to be levied by the municipality on the licensee for the grant of holding a *mela* and for what purpose this fee should be spent?

(*g*) Do the municipalities utilise the sum so realised as licence fee for purposes other than *mela*?

(*h*) Do the municipalities make profit of the licence fee so realised for *mela*?

(*i*) Will he be pleased to state whether the sums realised as licence fee have been allowed to the municipality by way of an avenue of income without throwing any corresponding obligation on the municipality for such fairs?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca): (*a*) and (*d*) Yes.

(*b*) Yes. These are Statutory Rules and are binding on all municipalities without fresh adoption through a resolution of the Commissioners at a meeting.

(*c*) No.

(*e*) Yes. The adoption of a lower rate does not require confirmation by Government or publication in the *Calcutta Gazette.*

(*f*) to (*i*) The responsibilities referred to devolve on the owner of the fair or *mela.* The municipal commissioners have also certain responsibilities for looking after the sanitation, etc., of the fair or *mela* by deputing their sanitary officers so as to check the possibility of the spread of infection. The fee will be credited to the municipal fund for carrying out the purposes of the Act.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Do the Municipality utilise the sum for other purposes?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: They may. It will go into the general coffers of the municipality.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: I mean, after expenditure if there be any surplus, can they utilise it for other purposes?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Certainly.

The Bengal Money-lenders Bill, 1939.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I owe an explanation to this House for my absence from the Council yesterday when the House reassembled after the brief adjournment. I was asked to produce before the Hon'ble the President certain orders which were passed by Sir Robert Reid as the Governor of the Province. Although I was in charge of the department, the actual work of conducting this Bill in the Lower House was left to the Hon'ble Mr. Suhrawardy. So Mr. Suhrawardy was in possession of all

the facts. But on examination of the papers, I find that the matter was referred to me, and I sent the reply or my Secretary sent the reply to the Assembly Department on the 1st of April, 1939.

Mr. RANAJIT PAL CHOUDHURY: On All-Fools' Day?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: That may be. As the Hon'ble President wanted to see the papers, I shall show them to him and I hope that will satisfy him.

As regards my absence yesterday, there has been some misunderstanding, both from my side as well as from the side of those gentlemen who were present here. When I was in the Government House searching for these papers, I was told by the Secretary to the Governor that the Hon'ble President had intimated to him that he was going to adjourn the meeting at once and that the matter would come up for discussion the next day, that is, to-day. Having got this intimation, I thought that the Hon'ble President had already decided that the matter ought to be postponed for to-day. Consequently, we were a little late just by a minute or so; and when we came here we heard that the meeting was over. I do not want to put the blame on any one except on myself, and for this I must apologise to the House. I hope the members will not take it amiss. Constitutionally, as one placed in charge of this Bill, I have no right to be absent when the Council meets. But I hope you will understand the peculiar circumstances which led to my absence from this House yesterday. I hope to be excused for the same.

Now, Sir, I wish to show the papers to you. (Papers shown.) I hope this would satisfy the Hon'ble President that we received the sanction of His Excellency the Governor for bringing in a Bill like this in the Lower House. This has come automatically from the Lower House to the Upper House. All these formalities were gone through in the Lower House and I think nothing further remains to be done.

Mr. PRESIDENT: It is against Parliamentary etiquette and convention to refer to what happened in the other House. As a matter of fact, we have nothing to do with what had happened elsewhere. They are an independent body and we go in our own way. The section of the Government of India Act which I quoted yesterday requires the previous sanction of the Governor. The Hon'ble Minister was good enough to show us the records, in which the sanction of the then Governor was given for the introduction of some amendments relating to the clauses of the Bengal Money-lenders Bill. Those sanctions do not meet the point that I raised. However, I have received a communication from His Excellency, Sir John Herbert through his Secretary. The letter which is dated 28th November, 1939, says: "I am directed

to say with reference to rule 6(*4*) of the (Governor's) Rules that the sanction of His Excellency the Governor in his discretion under section 299(*3*) of the Government of India Act, 1935, is granted to the motion *to be made* by the Hon'ble Nawab Musharruff Hossain for the consideration of the Bengal Money-lenders Bill, 1939". In this connection, I have further ascertained that His Excellency the Governor's sanction had been given only at 3-15 p.m. yesterday. Section 299(*3*) of the Government of India Act, 1935, enjoins not merely sanction by the Governor but *previous sanction* by him. Now, the contents of the letter just read out by me make it clear that previous sanction was not obtained from the Governor when the Hon'ble Nawab Bahadur moved his motion yesterday for taking the Bengal Money-lenders Bill into consideration. I think that it is unnecessary for me again to refer to the section. It is specifically stated therein that no Bill shall be moved in a Chamber of the Provincial Legislature without the previous sanction of the Governor in his discretion. Under the circumstances, the motion was certainly premature. The British Parliamentary procedure is that in case of irregularities as had happened yesterday on account of the absence of previous sanction by the Governor, the entire proceedings should be declared null and void. If any authority is needed in this connection, I would refer to May's book, on "Parliamentary Practice", page 393, where it is stated that: "If a Bill has been read a second time by mistake or inadvertence, the proceedings have been declared null and void, and another day has been appointed for the second reading." He also refers to a similar matter on page 694 where it is stated that: "If notice be taken of any other informality such proceedings will be null and void and the stage must be repeated." So, we shall have to follow, in the absence of any rules for the guidance of the House, the well-known Parliamentary procedure and I declare the entire proceedings of yesterday arising out of the Hon'ble Nawab Bahadur's motion for taking the Bengal Money-lenders Bill into consideration as null and void. He will have to begin *de novo*. I would, however, expect that the honourable members who have given notice of motions for reference to Select Committee will not insist on them because they have once been gone through. I would therefore ask the Hon'ble Nawab Musharruff Hossain to move that the Bill be taken into consideration.

Mr. KAMINI KUMAR DUTTA: May I, Sir, rise to a point of order? As has been pointed out by you, really the sanction of the Governor was given on the 28th November.

Mr. PRESIDENT: Order, order. Previous sanction has been given for the motion *to be made* by the Hon'ble Nawab Bahadur, which means that a fresh motion is to be made by the Hon'ble Minister to-day.

Mr. KAMINI KUMAR DUTTA: Then my point of order is this. Owing to some sort of misconception on the part of the Hon'ble Minister or some other impression the motion had already been made and that a fresh motion now will be infructuous.

Mr. PRESIDENT: I have already declared the proceedings of yesterday null and void.

Mr. KAMINI KUMAR DUTTA: Yes, Sir. My point of order is, if a motion has been raised in the House, the same motion cannot be repeated in the same session.

Mr. PRESIDENT: Certainly, I appreciate the point. But I have already declared the proceedings null and void. The motion will have to be made *de novo*. So, it does not come under the mischief of the Rule of Repetition.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, after the ruling that you have given, I beg to move that the Bengal Money-lenders Bill, 1939, be taken into consideration.

Mr. PRESIDENT: Motion moved: That the Bengal Money-lenders Bill, 1939, be taken into consideration.

Rai SURENDRA NARAYAN SINHA Bahadur: I rise to a point of order, Sir. The Bill as it stands is *ultra vires* of this Provincial Legislature. It is hit by items Nos. 28, 33, 38, 42, 53 and 59 of the Federal List of the Constitution Act. The scheme of the Bill as defined in clause 2(*13*), materially affects all banking corporations (except Scheduled Banks) not excepting the Reserve Bank of India unless they are subsequently put on the modified list as also the conduct of banking business unless excepted as above——

Mr. PRESIDENT: Order, order. You will be perfectly in order to raise this point when those particular clauses will come up for consideration by the House. I think that you have no objection to the Bengal Money-lenders Bill being taken into consideration as a whole.

The question before the House is that the Bengal Money-lenders Bill, 1939, be taken into consideration.

(The motion was agreed to.)

Mr. PRESIDENT: Under our Rules, 7 days' time must be given to enable the honourable members to give notice of amendments to the clauses of the Bill. Will the Hon'ble Minister suggest when he would like to take up the Bill, clause by clause?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Next Monday, if it will suit the House.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, we have no objection to a short time being given for giving notice of amendments. But what I would like to lay stress on is that the amendments should reach us in time, analysed and classified in a printed list, so that we might consider the whole thing and come prepared for discussion on them.

The Hon'ble Khawaja Sir NAZIMUDDIN: On a point of order, Sir. I would ask you to give a ruling on an important point of procedure in this House. It appears that notice of any motion cannot be given by the Ministers in advance; that is to say, firstly the motion for consideration of a Bill is taken up, and when that is passed, the amendments to the clauses are taken up for discussion on a subsequent day. So far, the procedure, not only in the old Legislative Council, but in the present Legislative Assembly as well as in the Central Assembly and the Council of State, has always been that after the consideration motion has been carried, on the same day the amendments to the various clauses of the Bill are taken up.

Mr. PRESIDENT: I have pointed out the provisions of our Rules before. Will the Hon'ble Minister please refer to Rule 77?

If the motion made under rule 77 that the Bill be taken into consideration is carried, then alone the provisions of our rules regarding consideration of the amendments to various clauses of the Bill shall come into operation. The difficulty is that before this motion is carried and when this motion is considered, amendments are allowed not only for circulation but also for the select committee. Now, when a motion for a select committee is accepted and it goes to the select committee, the clauses are invariably altered to a certain extent, so that when the Bill comes back to the House, the House considers not the original Bill but one re-drafted by the select committee; and so all the amendments that come in the meantime are practically of no use if the Bill goes to the select committee. That is the reason why this salutary principle is followed. Once this motion is carried, then is the proper time to give notices of amendments to the clauses. And this procedure is provided for in our rules.

The Hon'ble Khwaja Sir NAZIMUDDIN: May I submit, Sir, that this a very important point? It means that the whole machinery of legislation will be delayed considerably if this practice is followed and it will take a long time to get through the business of the House. As I have stated, the rule is practically the same as it was, before we amended it. I have gone through the rules of the Central Assembly and of the Council of State—

Mr. PRESIDENT: Do you appreciate the point that I have stressed?

The Hon'ble Khwaja Sir NAZIMUDDIN: Yes, Sir.

Mr. PRESIDENT: Well, how do you propose to meet it?

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, both in the Central Assembly and in the Council of State the rule is practically identical. The procedure there—I can show you from the proceedings of the Central Assembly and of the Council of State if you will give me an opportunity—is that it is permissible, after the motion that a Bill be taken into consideration is passed, without any further interval to take up the amendments. In cases where an amendment is carried for reference of a Bill to the select committee, then, of course, all these amendments lapse and when the Bill comes back from the select committee you have to give notices of amendments *de novo*. Therefore, it is true that it may be in one or two cases or it may be in 50 per cent. of the cases that amendments for which notices have been given before the Bill has been referred to the select committee will lapse, but in the other 50 per cent. cases you can get only straightaway. In case of Government Bills, you will find, Sir, that practically in 75 per cent. of the cases where Government have not agreed to refer any Bill to the select committee but are for taking it straightaway for consideration, the motions for reference to a select committee are, as a rule, rejected.

Therefore, Sir, I would submit that first of all the most important point is that the business of the House should be carried on as expeditiously as possible. Secondly, Sir, the procedure on this point in our legislature should be the same as it is in the Central Assembly and in the Council of State. Before you give your final decision on this point, I would request you, Sir, to give me another day, so that I may place before you the reports of proceedings of these two Houses and then you will find that what is being followed now and the wording of the rule are practically identical. I am positive about this and I can prove to you that this is so. Looking at it from the point of view of convenience, Sir, I submit that it is far better that in 25 per cent. of the cases the amendments should lapse rather than that we should have to wait for another 5 or 6 days before we can take up discussion of the Bill clause by clause. I submit, Sir, that if this rule is accepted, then the position will be this that at the beginning of the sessions it will take 4, 5 or 7 days to give notice, so that it will be practically impossible to do any Government business or take up any Government Bill, because you have first to give notice that such and such matter be taken into consideration and then you have

got to wait till that motion is carried and then you have to wait for another seven days before you can take up any other business. In case the Bill is referred to a select committee if there is a motion that the Bill be referred back to the select committee for the second time, then again you cannot got ahead. That means that after the House has met, for seven days no Government business can be carried on. This is a practical difficulty for which a solution should be found. Even if the Hon'ble President holds that under the existing rules it is not possible to proceed, then the rules, Sir, ought to be amended so as to make it possible to do so.

Mr. PRESIDENT: The Hon'ble Minister has given his reasons why this rule should be changed, and it will be for the House to consider whether the rule should be amended. But as long as the rules stand as at present, the Chair has no other course open to him but to follow them. As regards this Bill, sufficient time for putting in amendments must be given to the honourable members. I shall, however, be glad to suspend the seven-days rule, and curtail the period, provided there is agreement amongst the members. I would, therefore, like to enquire of honourable members what time they will require for giving notice of amendments. I would like to ascertain the opinion of the Leader of Opposition, Mr. Kamini Kumar Dutta, as to how much time he wants for giving notices of amendments?

Mr. KAMINI KUMAR DUTTA: Sir, my party thinks that the consideration of the amendments may begin from next Monday.

Mr. PRESIDENT: The office will require some time to classify and consolidate the amendments. As Khan Bahadur Naziruddin Ahmad has rightly observed, it is very difficult to follow the amendments unless they are properly classified. You have to remember that also.

Mr. KAMINI KUMAR DUTTA: Sir, we want time till next Friday for giving notices of amendments.

Mr. PRESIDENT: I think that will suit everybody.

(Cries of "Yes".)

Mr. PRESIEDNT: I forgot to consult the other party leaders on this point. Are they satisfied with three days' time?

Raja Bahadur BHUPENDRA NARAYAN SINHA, of Nashipur: No, Sir. We want seven days' time for giving notices. At least, we must get clear five days for giving notice of our amendments to the clauses.

Khan Bahadur ATAUR RAHMAN: We want two days only.

Raja Bahadur BHUPENDRA NARAYAN SINHA, of Nashipur: On Monday morning we propose to submit our amendments.

Rai KESHAB CHANDRA BANERJEE Bahadur: Sir, may I submit one outstanding fact that this is a measure of far-reaching character; many vital issues are involved and many vested interests will be seriously affected if this measure is placed on the Statute book. So, the members of this House should be given sufficient time to give notices of their amendments.

Mr. PRESIDENT: That is quite correct but when the main Opposition, the Congress Group, wanted three days, I thought that that would be sufficient for all.

Rai KESHAB CHANDRA BANERJEE Bahadur: We want time till Saturday.

Khan Bahadur M. ABDUL KARIM: In the opinion of my party, three days will be more than sufficient.

Mr. W. B. G. LAIDLAW: As far as we are concerned, we are going through this Bill for some weeks and I think two days will be ample for our requirements.

Mr. PRESIDENT: The difficulty of the Chair is that this is a question more for the Opposition who are expected to put in amendments than for the Government or the supporters thereof like the Coalition Party. I find the Congress Party is satisfied with three days' time.

Rai KESHAB CHANDRA BANERJEE Bahadur: But I understand, Sir, that the Congress members are not going to give notice of any amendment.

Mr. KAMINI KUMAR DUTTA: No, Sir. We shall table some amendments, but I think that the Bill is a very short one and so three days' time will be sufficient.

Mr. PRESIDENT: The difficulty is that the office must be given three clear days to classify the amendments and to get them printed and circulated to the honourable members. So, the Bill cannot be taken up earlier than on Wednesday next. Even if we fix Friday to be

the last date for giving notices of amendments, the Bill cannot be taken up earlier than on Wednesday, but if it is Saturday, then, of course, it will have to be taken up later.

Rai KESHAB CHANDRA BANERJEE Bahadur: If the Council Department work on Sunday next, they may be given a holiday later on by way of compensation. (Laughter.)

Mr. E. C. ORMOND: On a point of information, Sir. Would you be good enough to inform the House, supposing the amendments are put in and have to be put in by Friday, on what date will these amendments be made public to members of the House, that is to say, on what date will our party have the amendments proposed to be moved by the Opposition? That is a matter which is of importance to us.

Mr. PRESIDENT: If we give time till Friday, then they will be ready for circulation on Wednesday only and not earlier. Three clear days must be given to the office for the process of classifying, consolidating, printing and getting them circulated.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: In that case, when will the actual consideration of the Bill be taken up, i.e., if the Bill be circulated to us on Wednesday, then on what date will the discussion be taken up clause by clause?

Mr. PRESIDENT: Next day, i.e., on Thursday.

Mr. J. B. ROSS: Sir, is it the intention that the amendments will be made available to us on Wednesday and they will be taken up for discussion on Thursday? If so, is not that rather a short time to give us to consider and decide what attitude we should take in regard to these amendments?

Mr. PRESIDENT: I know there was some objection before from the European Group that they did out get proper time to make up their minds with regard to the amendments tabled in connection with important Bills. This is a complicated legislation, and though the Leader of the Opposition thinks that it is a small matter, I find that it is a rather complicated measure. That is the reason why I would like to consult the Leaders of parties and fix a suitable time. The office will, I understand, take three days. I do not know what date will suit Mr. Hunter.

Mr. H. C. A. HUNTER: If we get 48 hours' notice, we could manage to come to a decision in these matters. But 24 hours is much too short.

Mr. PRESIDENT: If we allow three days for the amendments to be tabled and three days for the office to classify and consolidate them, the European Group will require another two days.

Mr. E. C. ORMOND: Friday would suit this Group.

Mr. LALIT CHANDRA DAS: That is a non-official day.

Mr. E. C. ORMOND: Mr. President, I am authorised to make this suggestion to you. I do not know whether you have already considered this matter. This Bill has been in everybody's mind for some time, and therefore I would suggest that it is not necessary for anybody to take any long period of time, as they might have taken over other Bills, before putting in amendments. If you, Sir, give members one day or at the most 48 hours to put in these amendments, then the other time can be satisfactory, and we can take it up. The reason why the party to which I belong needs time after the amendments have been received and classified by the office is that we want to consider them. We do not want any time, and I would respectfully suggest no other members of the House need any time, to put in the amendments.

Mr. PRESIDENT: Considering different viewpoints, I fix the 1st of December, 1939, that is, Friday, 3 p.m. as the time for giving notice of amendments, and the House will consider this Bill, clause by clause, on the 7th of December, that is, on Thursday. I think this will suit the convenience of all members because they will get the consolidated list a day earlier.

I adjourn the Council till 2-15 p.m. on Friday, the 1st of December, 1939.

Adjournment.

The Council then adjourned till 2-15 p.m. on Friday, the 1st December, 1939.

Members absent.

The following members were absent from the meeting held on the 28th of November, 1939:—

(1) Rai Bahadur Manmatha Nath Bose.

(2) Mr. Humayun Reza Chowdhury.

(3) Mr. Kanai Lal Goswami.

(4) Khan Bahadur Syed Muhammad Ghaziul Huq.

(5) Dr. Radha Kumud Mookerjee

(6) Rai Bahadur Satis Chandra Mukherji.

(7) Mr. Krishna Chandra Roy Chowdhury.

(8) Rai Sahib Jatindra Mohan Sen.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Friday, the 1st December, 1939, at 2-15 p.m. being the fifth day of the Third Session, pursuant to section 62(2) (*a*) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Military training in schools in Bengal.

31. Mr. NUR AHMED: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state if any provision has been made in Bengal for military training in schools?

(*b*) If not, does the Government intend to open a military training school in order to train teachers for giving military training to students in schools?

(*c*) Is it a fact that the Government of Bihar has established such a school at Ranchi?

(*d*) Is the Hon'ble Minister aware of the fact that there is a great demand for military training for boys in schools?

(*e*) If so, will he be pleased to state why no military training school has yet been established in Bengal?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK (on behalf of the Hon'ble Mr. A. K. Fazlul Huq): (*a*) No provision has been made.

(*b*) Not at present.

(*c*) I have no information.

(*d*) Yes.

(*e*) The hon'ble member is referred to the reply given on 6th March, 1939, to clause (*b*) of his question No. 73 on the subject.

Rai Bahadur KESHAB CHANDRA BANERJEE: Will the Hon'ble Minister be pleased to state whether the principle underlying the question put by the honourable member has been accepted?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: The honourable member may be good enough to know that this is a very difficult question but Government have taken all possible steps to bring about physical improvement of the boys through regular drill.

Rai Bahadur KESHAB CHANDRA BANERJEE: With reference to answer (*c*), will the Hon'ble Minister be pleased to state whether an enquiry will be made into the matter?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: The matter will be looked into.

Rai Bahadur KESHAB CHANDRA BANERJEE: With reference to answer (*d*), if the Government are satisfied that there is a great demand for military training for boys in schools, why should there be the least possible delay in coming to a decision?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: It involves, as I have said, consideration of various matters which require investigation, and so far as military training is concerned, it is a matter for the Central Government. The local Government cannot take action without proper advice from the Central Government, and the question of finding proper teachers will naturally arise. The local Government have got to take into consideration all these matters before coming to a decision.

Rai Bahadur KESHAB CHANDRA BANERJEE: Is the Hon'ble Minister aware that the Congress Governments of Bihar and other provinces have accepted this principle, viz., the principle of military training for boys in schools? Will the Hon'ble Minister be kind enough to have an enquiry made regarding the scheme adopted in those provinces?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: As the answer shows, we have no information as to what has been done in Bihar. With regard to other provinces, we might ask what those Governments have done.

Release of political prisoners convicted in the Bathua Dacoity case.

32. Mr. LALIT CHANDRA DAS: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state how many political prisoners convicted in the Bathua Dacoity case were released unconditionally by the Government following the recommendations of the Advisory Committee? What are their names and what were the periods of sentences? Were any of these prisoners who have now been released unconditionally, sentenced to transportation for life?

(*b*) Is it not a fact that Mukunda Ranjan Chakraverti, Harihar Datta and Monmohan Saha were convicted in the same Bathua Dacoity case and sentenced to transportation for life on the same date? And

is it a fact that on the 7th October, 1939, in ordering the release of Mukunda, Harihar and Monmohan, Government imposed conditions on them which they refused to accept?

(c) Is it not a fact that the conduct in jail of the said Mukunda, Harihar and Monmohan have been reported to be good?

(d) Who are the other prisoners in connection with the Bathua Dacoity case upon whom conditions have been imposed along with the orders for their release? Is it a fact that they also refused to accept release on condition? Is it not a fact that their conduct in jail has also been reported good? Against whom is the jail conduct reported to be bad?

(e) Does Government propose to reconsider their cases now and release them unconditionally? If not, will the Hon'ble Minister be pleased to state the grounds of such differential treatment in the case of these prisoners from those mentioned in paragraph (a)?

The Hon'ble Mr. H. S. SURHAWARDY (on behalf of the Hon'ble Khwaja Sir Nazimuddin): (a) Nine terrorist prisoners of the Bathua Dacoity case have been released unconditionally on the recommendation of the Advisory Committee. Their names and other details asked for are given in the statement attached.

(b) and (c) Yes.

(d) Priyada Ranjan Chakrabartti is the only other prisoner on whom conditions have been imposed in his release order. His jail conduct is good and he has also refused to accept release on condition. The jail conduct is reported to be bad against Nos. 2, 3, 4, 5, 6 and 9 of the attached statement.

(e) No. The grounds on which Government's decisions in each case are based have been stated both in this House and recently in a resolution No. 2262H.J., dated the 13th November, 1939, of which a copy was laid on the table in reply to question No. 8 answered during this session. The hon'ble member's attention is invited to these statements.

Statement referred to in the reply to clause (a) of question No. 32.

Name of terrorist prisoners.	Period of sentence.	Date of sentence.
1. Kriti Mazumdar ..	7 years' rigorous imprisonment.	27th August, 1934.
2. Nagendra Lal De ..	10 years' rigorous imprisonment.	Ditto.
3. Monoranjan Chowdhuri ..	7 years' rigorous imprisonment.	Ditto.
4. Nirendra Lal Barua ..	10 years' rigorous imprisonment.	Ditto.

Name of terrorist prisoners.	Period of sentence.	Date of sentence.
5. Jibendra (Jatindra) Kumar Das.	10 years' transportation.	27th August, 1934.
6. Saradindu Bhattacharji ..	Ditto ..	Ditto.
7. Gagan Chandra De ..	Transportation for life.	Ditto.
8. Manindra Chandra De ..	Ditto ..	Ditto.
9. Arabinda De	10 years' rigorous imprisonment.	Ditto.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to look into the statement referred to in his reply and say whether it is a fact that prisoners Nos. 7 and 8 convicted and sentenced to transportation for life, were released unconditionally?

The Hon'ble Mr. H. S. SUHRAWARDY: Those who accepted the conditions have been released.

Mr. LALIT CHANDRA DAS: Therefore, I say that the Hon'ble Minister ought to read it first and then reply to my question. Will the Hon'ble Minister be pleased to look into the statement attached to the reply wherein it is said that prisoners Nos. 7 and 8 were convicted and sentenced to transportation for life and yet released unconditionally?

The Hon'ble Mr. H. S. SUHRAWARDY: My friend is merely repeating answer (*a*).

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to explain why conditions were imposed on Mukunda Ranjan Chakravarti, Harihar Datta and Monmohan Saha, convicted in the same Bathua Dacoity case and sentenced to transportation for life, and therefore could not be released?

The Hon'ble Mr. H. S. SUHRAWARDY: I suppose——

Mr. LALIT CHANDRA DAS: The Hon'ble Minister is only suposing; but that will not do.

The Hon'ble Mr. H. S. SUHRAWARDY: The reason being, I take it, that the Advisory Committee imposed certain conditions.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state if, when the recommendations of the Advisory Committee are contradictory—in one case they recommend that prisoners

Nos. 7 and 8, sentenced to transportation for life, be released unconditionally and in another case they recommend that prisoners Mukunda Ranjan Chakravarti, Harihar Datta and Monohar Saha, convicted in the same Bathua Dacoity case and sentenced to transportation for life, be not released unconditionally—the Government is bound to accept those recommendations?

The Hon'ble Mr. H. S. SUHRAWARDY: The Government are not called upon to explain why the Advisory Committee recommends in one manner in respect of one prisoner and in another manner in respect of another prisoner. The Advisory Committee exercised what may be termed judicial discretion in this matter and took into account various factors including not merely the sentence but the heinousness of the crime, the conduct of the prisoner and many other factors that I may not be aware of.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to follow me? That is not what I asked him. I asked him whether Government was bound to accept the recommendations of the Advisory Committee when its recommendations were contradictory by themselves?

The Hon'ble Mr. H. S. SUHRAWARDY: Government have, to the best of their ability, tried to accept the recommendations of the Advisory Committee. Having set up an Advisory Committee, Government feel bound to accept their recommendation unless for very strong reasons.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to look at answer (*d*)? There, it is said that the jail-conduct of Priyada Ranjan Chakraverti was found to be good and yet a condition was imposed upon him for release whereas the conduct of prisoners Nos. 2, 3, 4, 5, 6 and 9 are reported to be bad so far as jail record is concerned, and yet have been recommended release unconditionally. Will the Government be pleased to explain why condition was imposed on Priyada Ranjan Chakraverti in spite of the fact that his jail-conduct was good?

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I cannot give reasons why the Advisory Committee recommended in one manner in one case and in another manner in another case. The reasons cannot by their very nature be before the Government and therefore the Government cannot answer the question put so frequently.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to look at answer (*e*)? May I take it that the Hon'ble Minister has gone through the Government resolution No. 2262H.J., dated the 13th November, 1939?

The Hon'ble Mr. H. S. SUHRAWARDY: Before I reply to that question, Sir, I would like the hon'ble member to find out whether I have gone through the resolution by means of cross-examination.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister kindly refer to answer (*e*)? The question is: "Does Government propose to reconsider their cases and release unconditionally? If not, will the Hon'ble Minister be pleased to state the grounds of such differential treatment in the case of these prisoners from those mentioned in paragraph (*a*)"? In reply I was referred to resolution No. 2262H.J., dated the 13th November, 1939. Therefore, I would ask the Hon'ble Minister whether he has gone through the resolution. If he has gone through the resolution, then my question is: Will the Hon'ble Minister take it that that resolution does not give any ground for making any differentiation between prisoners Mukunda Ranjan Chakraverti, Harihar Datta and Monmohan Saha and those who were released unconditionally?

The Hon'ble Mr. H. S. SUHRAWARDY: I do not know why the honourable member says so.

Mr. LALIT CHANDRA DAS: I ask whether the Hon'ble Minister has gone through the resolution and the plain answer should be "No", if he has not gone through it.

The Hon'ble Mr. H. S. SUHRAWARDY: I think the hon'ble member must make out a case that the statement made by Government or the resolution does not cover these cases.

Mr. PRESIDENT: Order, order. Questions are meant to seek information and not for cross-examination. You please put the questions straight for information only.

Mr. RANAJIT PAL CHOUDHURY: The Hon'ble Minister invites cross-examination.

Mr. PRESIDENT: Order, order.

Mr. LALIT CHANDRA DAS: I shall put the question for information.

Mr. PRESIDENT: You ought to seek information and not give information.

Mr. LALIT CHANDRA DAS: I want to know whether the resolution No. 2262H.J., dated the 13th November, 1939, gives any ground whatsoever for making a differentiation between prisoners

Mukunda Ranjan Chakraverti, Haribar Datta and Monmohan Saha on the one side and prisoners Gagan Chandra De and Manindra Chandra De, on the other.

The Hon'ble Mr. H. S. SUHRAWARDY: It does.

Mr. LALIT CHANDRA DAS: In what way? Will the Hon'ble Minister be pleased to explain? I want him to refer me to those portions of the resolution.

The Hon'ble Mr. H. S. SUHRAWARDY: I have not got the resolution before me, but I think I would refer the honourable member to the resolution.

Mr. LALIT CHANDRA DAS: Therefore, I put it to him that he does not know what the resolution contains.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state what was the sentence imposed on Priyada Ranjan Chakraverti?

The Hon'ble Mr. H. S. SUHRAWARDY: I must ask for notice.

Mr. HUMAYUN KABIR: May I suggest that all this difficulty arises on account of the fact that the Hon'ble Minister is not in charge of the department to which the questions relate ?

The Hon'ble Mr. H. S. SUHRAWARDY: I doubt very much if the Hon'ble Minister in charge of the department himself would have known what was the sentence imposed on various prisoners.

Mr. PRESIDENT: Order, order. The right of putting supplementary questions is a very valued right and I would request the Hon'ble Ministers, who undertake to answer questions on behalf of other Ministers, to come fully prepared. I have no objection to one Minister or the other Minister answering the questions. But I would expect them to come prepared with all information necessary for answering any relevant supplementary questions that may be put.

Control of the Library of the Legislature.

33. Rai KESHAB CHANDRA BANERJEE Bahadur (on behalf of Raja Bhupendra Narayan Sinha Bahadur, of Nashipur): (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state whether any steps have been taken for transferring the control of the Library of the Legislature to the joint control of the Hon'ble the President and the Hon'ble the Speaker?

(*b*) If so, will he be pleased to state the steps so far taken?

(*c*) Has the control of the Library been vested in the joint control, as was decided?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) The matter is still under the consideration of Government.

(*b*) and (*c*) Do not arise.

Rai KESHAB CHANDRA BANERJEE Bahadur: Will the Hon'ble Minister be pleased to state how long the consideration stage will continue?

The Hon'ble Mr. H. S. SUHRAWARDY: As long as Government take to come to a final decision.

Food problem in Bengal.

34. Mr. NUR AHAMED: (*a*) Will the Hon'ble Minister in charge of the Public Health and Medical Department be pleased to state if it is a fact that many people in Bengal are suffering from malnutrition in most cases for want of proper instruction regarding proper and suitable diet?

(*b*) If so, what steps have been taken by Government of Bengal to educate the masses of Bengal about proper nutrition by means of peripatetic teachers or otherwise?

(*c*) If not, what measures does the Government of Bengal intend to adopt to train the people in the art of preparing diet? If not, why not?

MINISTER in charge of the PUBLIC HEALTH and MEDICAL DEPARTMENT (the Hon'ble Mr. Tamizuddin Khan): (*a*) Yes.

(*b*) A statement is laid on the table.

(*c*) The question does not arise.

Statement referred to in reply to clause (b) of question No. 34.

The Government of Bengal have appointed a nutrition survey staff consisting of one trained Nutrition Survey Officer, two male and one female sub-assistant surgeons for a period of four years commencing from December, 1937, to carry out the nutrition work detailed below:—

(I) (*i*) Nutrition survey in schools throughout the Province for the detection of malnutrition. After the health examination, the heads of the institutions are informed about the defects of the scholars, so that the guardians may take necessary steps.

(*ii*) Nutrition survey in maternity centres and clinics, etc., to detect malnutrition amongst the infants and pre-school going children.

(II) Diet survey in families of different grades of life and different social groups. After analysis the families are informed about the defects in their diets if any, with necessary suggestions for improvement.

(III) Educating the public with regard to proper nutrition including arrangement for preparation of a balanced diet in the light of results obtained from (I) and (II).

(IV) Preparation of cheap menus of balanced diet and distributing them in Health welfare weeks and schools.

(V) Health talks and nutrition lectures in schools and public places of different districts of Bengal.

(VI) Planning of institutional diets.

Rai Bahadur KESHAB CHANDRA BANERJEE: With reference to answer (*b*), will the Hon'ble Minister be pleased to state whether any appreciable improvement has been noticed in the physical condition of the boys in course of these two years?

The Hon'ble Mr. TAMIZUDDIN KHAN: A good deal of work has been done but whether any appreciable result has been achieved already, I cannot say.

Mr. PRESIDENT: It is a matter of opinion.

Rai Bahadur KESHAB CHANDRA BANERJEE: Will the Hon'ble Minister be pleased to state if any report will be submitted by the officers concerned?

The Hon'ble Mr. TAMIZUDDIN KHAN: Yes, the report has already been submitted to Government.

Mr. PRESIDENT: Order, order. Non-official Bills will now be taken up for discussion.

NON-OFFICIAL BILLS.

The Bengal Shop Hours and Shop Assistants Bill, 1938.

Mr. HUMAYUN KABIR: Sir, I beg to move that the Bengal Shop Hours and Shop Assistants Bill, 1938, be taken into consideration.

I do not propose to inflict a long speech in connection with this Bill, for the principles underlying this Bill have already been discussed in this House. I think there is unanimity of opinion in

all sections of the House with regard to the principles of the Bill. Everyone in this House admits that the present condition in shops is one which would not and should not be tolerated in any civilised country of the world. Shop assistants have to work as long as 18 or even 20 hours during rush seasons and under the present conditions, they have no definite rules about salary, about wages, about their hours of work and about recreation or leisure. This is a state of affairs which goes against the conditions of civilised living and in this way we are preventing a very large section of the people of our country from enjoying the amenities of citizenship to which they are entitled. I think, Sir, I am not exaggerating when I say that there is perfect unanimity among all sections of the House so far as the principles of this Bill are concerned.

When this Bill came up once before on the floor of this House, the Hon'ble Mr. Suhrawardy was pleased to state on behalf of Government that he sympathised with the object of my Bill and so far as the principle of the Bill was concerned, he was willing to accept it but that there were many details with which he did not agree. Not only that. He said that Government themselves were preparing a Bill more or less on the lines of the Bill of which I had given notice and that that Bill would be introduced in this House in June, 1939. On that assurance of the Hon'ble Minister, at that time I withdraw my motion for consideration of the Bill. Sir, I have regretfully to say that as yet the promised Bill has not been introduced in this House or in any other place. We expected that this would be introduced in June last. What are the reasons for which Government have not been able to introduce this as yet? In certain other provinces, the movement has already caught. Governments in certain other provinces have already framed Bills more or less on the lines of the Bill which I moved here almost two years ago and at least in one province, the Bill has already been passed. It had been my hope that Bengal would be the first province to have a Bill of this type—a Bill which would control the conditions of work for shop assistants and also regulate the hours of their work in shops. But unfortunately, Bombay has stolen a march over us. Yet I would urge upon Government that I do not want to stand in the way of Government introducing a Bill of this type. I quite appreciate the fact that if a Government Bill is brought before this House, it has a chance of going through the House much more quickly and expeditiously than a private member's Bill. Therefore, I would request the Hon'ble Minister to take it over as a Government Bill, if possible, or at any rate to introduce a Bill which will embody the principles which are included in this Bill.

In order to refresh the memory of the members of this House, I would go very briefly and rapidly over the principles which are involved in the Bill.

Firstly, there should be regulation of the hours of work in shops. At present, there is absolute anarchy and chaos so far as hours of work are concerned. We want instead that there should be preferably an 8-hours' day; but if for some reasons, it is not found possible to immediately have an 8-hours' day, we would press for having a 9 or even a 10-hours' day. What we want is to have a fixed principle about the hours of work so far as the shop assistants are concerned.

Secondly, there should be provision for weekly holidays for shop assistants and also for ensuring that they get advantage of those general holidays, e.g., the Id, the Christmas and the Pujah holidays, which other citizens enjoy but from the enjoyment of which the shop assistants alone are deprived.

Thirdly, there is the question of some sort of regulation of the conditions of their working. Shop assistants should not be dismissed at the will of shop-keepers.

Fourthly, if possible, there should be a minimum salary for those working in shops.

Fifthly, there should be an age-limit and small children who have not grown mature should not be forced to work for 14 hours or more thereby causing great damage to their health and future. I am sure that these are principles which every member of this House will sympathise with and generally support. Lastly, as I have said before, if Government are willing to bring in a Bill of this type, we shall, all of us, be glad to lend our support to such a Bill. With these words, I beg to move that the Bill be taken into consideration by the House.

Mr. PRESIDENT: Motion moved: that the Bengal Shop Hours and Shop Assistants Bill, 1938, be taken into consideration.

Mr. NARESH NATH MOOKERJEE: Sir, may I be permitted to move a short-notice amendment which is merely for circulation?

Mr. PRESIDENT: My office received this notice for circulation at 1-40 p.m., and the House sat at 2-15 p.m. It is very unreasonable to give such notices. However, if honourable members have no objection, I shall accept it for this day only. The amendment is that the Bill be circulated for eliciting opinion thereon by the 31st January, 1940.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, the difficulty that I feel with regard to this amendment for circulation is that supposing that I introduce a Shop Hours' Bill on the 6th December, as I propose to do on the floor of this House, it will be rather expensive and, if I may say so, a little bit infructuous too. I first thought that this motion

for circulation might be accepted, but in view of the fact that I propose introducing a Bill on the 6th December, 1939, perhaps Mr. Humayun Kabir may be good enough to withdraw his present motion. The Bill will not be killed but it will remain——

Mr. HUMAYUN KABIR: No, I think the Bill will be killed.

The Hon'ble Mr. H. S. SUHRAWARDY: If Mr. Kabir withdrew his motion, that will not result in killing his Bill. I do not like his Bill to be killed.

Mr. PRESIDENT: Mr. Kabir's Bill will not be killed, because he has taken steps in connection with his Bill during this session.

The Hon'ble Mr. H. S. SUHRAWARDY: I would certainly have accepted this motion for circulation if there was any danger of Mr. Humayun Kabir's Bill being killed until I introduce the Government Bill. But as we have it from the Chair itself that the Bill is not likely to be killed, I would request Mr. Humayun Kabir to withdraw his motion for taking this Bill into consideration. I intend introducing a Bill of this nature, as I have stated, on the 6th December and probably in this very session, I shall move that the matter be referred to a Select Committee of this House so that no time be further spent on circulation of the Bill which is long overdue.

Mr. NARESH NATH MOOKERJEE: On a point of information, Sir. May we know from the Hon'ble Minister if the Government Bill is likely to be on the same lines as that of Mr. Humayun Kabir or it will be on entirely different lines? Certain new features have been introduced in the Bill of Mr. Kabir——.

The Hon'ble Mr. H. S. SUHRAWARDY: That would be a matter, if I may say so, either for the Select Committee or for the House to decide at a subsequent stage. As I said, I have not accepted all the principles underlying the Bill of Mr. Humayun Kabir. For example, he has provided for a minimum wage of Rs. 30. I know that it will kill many of the shops which are now in existence in Calcutta. On the other hand, I would like to extend the provision of shop hours to commercial establishments, if possible, and to restaurants and eating houses where the workers are worked overtime. There will be certain differences between the Government Bill and that of Mr. Humayun Kabir. I hope the House and perhaps Mr. Humayun Kabir himself may consider the Government Bill to be an improvement. Even if it is not, it will be a matter subsequently, as I have said, both for the Select Committee as well as for this House to give it proper shape so that a practical piece of legislation may be put on the Statute book.

Mr. HUMAYUN KABIR: In view of the fact that the Hon'ble Minister has definitely told us that the Government Bill will be introduced on the 6th of December, 1939, on the floor of this House and since he has given us a further expectation that it will be referred to a Select Committee in this very session, I do not like to press my motion. With your permission, Sir, I would like to withdraw my motion.

Mr. PRESIDENT: Is it the pleasure of the House to permit Mr. Humayun Kabir to withdraw his motion that the Bengal Shop Hours and Shop Assistants Bill, 1938, be taken into consideration?

(Cries of "No objection".)

The motion was then, by leave of the House, withdrawn.

The Bengal Abolition of Dowry Bill, 1938.

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I beg to move that the Bengal Abolition of Dowry Bill, 1938, be taken into consideration.

Sir, the system of dowry originally starting from the idea of making free gifts at the time of marriage has degenerated into an engine of oppression for extorting money as a consideration for marriage. The woes of fathers and guardians of daughters of the so-called *Bhadralog* classes, are so well-known that I need not recount them here. Tragedies that have occurred in Bengali homes owing to the inability of the father to pay the consideration money are too recent to be forgotten by most of us. But however great the sufferings of the upper classes, they do not compare with the hardships which some sections of the lower castes of the Bengali society labour under owing to the prevalence of *kanyapana*, i.e., bride-money which the males are to pay owing to the paucity of girls. The result is that marriages are well-nigh impossible and when they are possible, the disparity in the age of the couple is such that the male spouse dies leaving the female spouse a girl widow who drifts to towns for employment and is drawn to evil ways with the result that the family becomes extinct. Social reforms in this direction are urgently needed and this explains why other provinces have adopted such measures. Some may say that the custom of taking *panas* or dowry as a consideration for marriage is not sanctioned by the Shastras. Manu and other law-givers have classed marriages with dowry as inferior forms of marriage.

All sections of the community are united in their condemnation of this system. The Brahmin Sabha, the Kayestha Sabha and other similar progressive caste organisations have supported this Bill. The Bengal Hindu Sabha, which is a registered society for the promotion of welfare of Bengali Hindus, has by a resolution supported the

principles of this Bill. The Conference of Hindus at Khulna under the presidentship of Mr. Savarkar has pleaded for the abolition of dowry. In fact, the evils of the system are so glaring and pernicious that I do not fear that any dissentient voice will be raised in the Council for consideration and passing of this measure. If there is any difference about details, that can be settled in the Select Committee. I hope neither the people nor the Government can have any objection to the principles of the Bill. Other provinces have gone ahead of us. The Province of Sind has already put such anti-dowry legislation on the Statute Book. The Bihar Legislative Assembly also has passed an anti-dowry Bill, and I have a copy of that Bill with me. Will Bengal, where the need for such law is so great, lag behind? I hope, Sir, we shall lose no further time in removing this slur upon our reputation. The Bill was published in the *Calcutta Gazette* and even before that it was published in the Press in full. As for the question of non-intervention in social matters, that question was gone into at length by the Age of Consent Committee, of which you, Sir, were a member. Ever since the days of the Suttee Regulation, the Government have legislated in social matters and the recent Sarda Act was passed in the face of some opposition from interested parties. If there be any objection from the Muslim community with regard to any provision of this Bill, I am quite willing to delete or modify those portions. With these words, Sir, I move the Bill for consideration of this House.

Mr. PRESIDENT: Motion moved: that the Bengal Abolition of Dowry bill, 1938, be taken into consideration.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I beg to move that the Bill be circulated for eliciting opinion thereon by the 1st of February, 1940. In the notice that I gave yesterday, I put the time-limit at 1st June, 1940. But since then we have had consultations with the leaders of different parties and they say that a shorter interval for inviting public opinion thereon will improve things. So, I propose that the Bill be re-circulated for eliciting opinion thereon by the 1st February, 1940. I may say this that this is a social legislation which aims at removing some of the evils that are in existence, and no one can have any objection to a legislation of this kind. But before any attempt is made to get enacted a social legislation of the kind that has been proposed, we must take the whole country with us and we must know their opinion before we venture to pass any legislation.

In the case of Muhammadans, they fear very much and hesitate in making any legislation regarding their social customs and practices, although some glaring evils are known to exist. But in the case of Hindus, I am informed just now that the Bihar Legislative Assembly has passed a legislation of this kind. If that is so, and if my Hindu

friends desire that a Bill of this kind should be passed here in Bengal, I would have no objection to seeing that this measure is passed through this House. Before I do so, I would like to take the country with me so that I may not be put to any difficulty on account of our passing a hasty legislation of this kind. I would therefore, press for circulation of this Bill with a view to eliciting opinion thereon.

Mr. PRESIDENT: Before I put this amendment before the House, I must say that notice of this motion was not given in proper time and it is developing into a very bad practice. Under rule 63(*1*) of our rules, 10 days' notice is necessary for amendments for circulation or for reference to a Select Committee. If there is no objection on the part of any member, then alone I shall accept the amendment; and in future in spite of the concurrence of the House, I shall be reluctant to accept such motion because it puts the honourable members to great disadvantage. I take it that so far as this particular amendment is concerned, there is no objection in this House.

(No one raised any objection.)

Amendment moved: that the Bill be re-circulated for eliciting opinion thereon by the 1st February, 1940.

The question before the House is that the Bill be re-circulated for eliciting opinion thereon by the 1st February, 1940.

(The amendment was agreed to.)

The Bengal Money-lenders (Amendment) Bill, 1937.

Mr. NUR AHMED: Sir, I beg to move that the Bengal Money-lenders (Amendment) Bill, 1937, be taken into consideration. Sir, in moving this motion, I should like to remove one misconception which I find in the minds of some of the honourable members of this House. It is said that the Bengal Money-lenders Bill, 1939, is before the House and the question has been asked what is the necessity of this amending Bill. I would respectfully draw the attention of the honourable members of this House to clause 45 of the said Bill, from which it will appear that the Bill of 1939 will be applicable to certain kinds of loans. But the Act of 1933 is applicable to all classes of loans including commercial loans, loans due to co-operative societies, insurance companies and other banks. But the Bill of 1939 will apply to only some classes of loans excluding commercial loans, loans due to co-operative societies, insurance companies and similar societies. So, there in a necessity for this Bill even after the passing of the Bill of 1939. From a perusal of the Act of 1933, it will appear to the honourable members that this Bill is based on the principles of the Usurious Loans Act of 1918. There is a provision in the Bill

regardin[illegible] f interest to be charged; and [illegible] interest as specified in that Act is 25 per cent. in the case of unsecured loans and 18 per cent. in the case of secured loans. My object in bringing this amendment is to reduce that rate of interest. My proposal is to reduce the rate of interest in the case of unsecured debts to 18 per cent. from 25 per cent. and in the case of secured loans, from 18 to 12 per cent.; and in the case of compound interest from 10 to 6¼ per cent. I have already submitted to the House that after the passing of the Bill of 1939, an anomalous state of things will exist in Bengal. In the Bill of 1939, the rate of interest has been fixed at 8 per cent. in the case of secured loans and 10 per cent. in the case of unsecured loans; but in the case of other loans if there is no amendment, the rate will remain 25 per cent. and 18 per cent. In the case of commercial loans, the rate will be higher. It is an admitted fact that cheap capital is absolutely necessary for the development of trade, commerce and industries in Bengal; but by an irony of fate, the rate of interest in case of commercial loans will be higher as compared with the rate of rent for agriculture and other purposes. So, there is a necessity for this amending Bill.

With these few words, Sir, I appeal to the House to accept my motion for consideration.

Mr. PERSIDENT: Motion moved: that the Bengal Money-lenders (Amendment) Bill, 1937, be taken into consideration.

Rai Bahadur KESHAB CHANDRA BANERJEE: Sir, I rise to oppose this Bill for the simple reason that another Bill of a similar nature is going to be discussed in this House in the course of a week and the hon'ble member will be entitled to move suitable amendments to the Government Bill. So, instead of wasting time, I think it would be better to consider the suggestions incorporated in this Bill along with the Government Bill when it comes up for discussion.

The Hon'ble Nawab MUSHARRUFF HOSSIAN, Khan Bahadur: Sir, my friend Mr. Nur Ahmed has pointed out to us that the Bill that has come up from the Lower House, viz., the Bengal Money-lenders Bill, 1939, has not satisfied him and he wants to make a further amendment. The Lower House has dealt with it in a certain way and has passed the Bill as it has thought fit. The Lower House was not satisfied with the rate of 8 and 12 per cent. interest. The rate has been reduced to 8 and 10 per cent. That, I think, ought to satisfy him. But his complaint is that the Lower House has made exceptions in the case of some loans and some Banks. The Bill has

come now to the Upper House. If any amendment is made in this House, it will go back to the Lower House. So, if my friend thinks that the Bill that has come from the Lower House requires some amendment, he can even now send in amendments to that effect and try to get them passed by this House. I hope, my friend will kindly withdraw his motion and will try to improve the Bill that is before this House by sending in amendments embodying his suggestions on this subject.

Mr. NARENDRA CHANDRA DATTA: It is too late for that now.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: It is not yet too late. It is just 3 p.m. It may be late by just a minute. (Laughter.)

My friend will be in possession of the amendments already tabled within three days and if he picks and chooses some of them, he will be able to satisfy himself. I hope, he will kindly withdraw this Bill which everyone considers to be unnecessary at this stage. Even my friend, Rai Bahadur Keshab Chandra Banerjee, has proposed that it should be considered along with the Bengal Money-lenders Bill which is already before this House. I do not know what my friend intends to do. If he withdraws the Bill now, it will not materially affect his case. After the House has fully considered the Government Bill, if he is not satisfied with the form of the Bill as it finally emerges from the House, he can bring in an amending Bill afterwards. So, at this stage such a Bill is unnecessary. I hope, therefore, that he will withdraw his Bill.

Mr. NUR AHMED: Mr. President, Sir, in view of the statement made by the Hon'ble Minister, I beg leave of the House to withdraw my motion for consideration of the Bill and not the Bill itself. A similar Bill is before the House——

Mr. PRESIDENT: Order, order. Argument is unnecessary. Is it the pleasure of the House to grant leave to Mr. Nur Ahmed to withdraw his motion that the Bengal Money-lenders (Amendment) Bill, 1937, be taken into consideration?

(Cries of "No objection.)

The motion was then, by leave of the House, withdrawn.

The Indian Registration (Amendment) Bill, 1938.

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I beg to move that the Indian Registration (Amendment) Bill, 1938, be taken into consideration.

Sir, the amendments I propose consist of the addition of a new chapter (Chapter XIA) after Chapter XI. This new chapter consists of four new sections with provisions for copying documents by means of photography.

As I have explained in the Statement of Objects and Reasons, the provisions of this Bill have been adopted from the Bombay Act of 1930 (Act XVII of 1930). The Madras Legislature also has passed a similar measure. It is strange that Bengal with all her progress in science has not yet introduced these wholesome provisions in her own Government. Apart from the excellence of the method of copying documents as they are by photography, the cost of keeping a large establishment of copyists by hand or type-writing will be very considerably reduced as one machine does the work of a large number of men. I hope that this Government should give a trial to this method of photography and thereby retrench the expenditure without in any way inspiring the efficiency but rather improving the efficiency of the department in the matter of the copying of documents. I hope my reasons will commend themselves to the House and to the Government for the consideration of the Bill.

Mr. PRESIDENT: Motion moved: that the Indian Registration (Amendment) Bill, 1938, be taken into consideration.

The Hon'ble Mr. A. K. FAZLUL HUQ: Sir, the Bill is a short one and we are prepared to concede that it represents an attempt to introduce a new system by which documents may be preserved, not merely as regards their contents but also a facsimile as much as possible by means of photography. As the honourable member has observed, there are two provinces where there are provisions of a similar character, viz., Bombay and Madras. The Madras Act has been in force since about 1921 and the system of copying documents by means of photography has been introduced only in 39 offices of the province as an experimental measure. It appears that the system has not been found to be satisfactory and this is the only explanation of the fact that it has not been more extensively introduced to other offices. Under this system, documents are forwarded by the Registering Officer to a Central Government Photograph Office at Poona in Bombay where they are photographed by the film process. The film is preserved as a permanent record. The photo register and the original documents with their final copies are returned to the Sub-Registrars who in their turn return the original documents to the parties and preserve the prints in bundles as registered books.

It is understood also that the system has been introduced in the Presidency of Madras but as the periodical reports of the Registration Department of the Presidency of Madras are not ordinarily received

in our office, we are not aware of any details about the working of the system in that province. Now, Sir, the obvious comment which I have to make is not merely regarding the question of cost, but also the likely result of throwing thousands of copyists, clerks and mohurrirs out of employment if this system is accepted as a substitute for the present system of copying. Either we have to retain the present system and over and above that introduce a system of preserving a copy by photography or we have to introduce the system of photography as a substitute for the present system. If we adopt the latter method, it is obvious that people will be thrown out of employment in very large numbers. If we adopt the other method, it will be expensive either to Government or to the parties and I do not think any sufficient case has been made out for introducing this system in addition to the system that is now in force. All things considered, we find it difficult to accept the main principle of the Bill or to consent to its being put on the Statute book. We agree that the idea is good and we are prepared to make enquiries from Bombay and Madras as to the reasons why they have not been able to extend it and I am also prepared to look into the matter and find out the question of cost on which we have been working, but which we have not yet completed. If the honourable member will accept my suggestion and withdraw the Bill, we may furnish the House with particulars on these points and then it will be open to the honourable member to take such further action in future as he may be advised. At the present moment, I am constrained to oppose this Bill.

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, from what we have heard from the Hon'ble Minister, it appears that some enquiries will be taken up by Government and it is possible that experiments will be made in one or two places as regards its cost and efficiency; and then, if Government is satisfied that its adoption will improve the position and better and more correct copies will be available to the parties by this method, I think, Government may bring in a Bill or if permitted, I can bring in a fresh Bill. That Bill will be circulated for eliciting public opinion and then placed before the House for its consideration. So, I have no objection to accept the suggestion of the Hon'ble Minister and withdraw my motion.

Mr. PRESIDENT: Is it the pleasure of the House that leave be granted to Rai Surendra Narayan Sinha Bahadur to withdraw his motion that the Indian Registration (Amendment) Bill, 1938, be taken into consideration?

(Cries of "No objection".)

The motion was then, by leave of the House, withdrawn.

The Bengal Prohibition Bill, 1938.

Mr. LALIT CHANDRA DAS: Sir, I beg to move that the Bengal Prohibition Bill, 1938, be referred to a Select Committee consisting of—

(1) The Hon'ble Mr. P. D. Raikut, Minister-in-charge of the Forest and Excise Department,

(2) Alhadj Khan Bahadur Shaikh Muhammad Jan,

(3) Khan Sahib Abdul Hamid Chowdhury,

(4) Khan Bahadur M. Abdul Karim,

(5) Mr. W. B. G. Laidlaw,

(6) Mr. Naresh Nath Mookerjee,

(7) Rai Brojendra Mohan Maitra Bahadur,

(8) Raja Bhupendra Narayan Sinha Bahadur,

(9) Mr. Nur Ahmed,

(10) Mr. Shrish Chandra Chakraverty, and

(11) the mover,

with instructions to submit their report by the 31st December, 1939, and that the number of members whose presence shall be necessary to constitute a quorum shall be four.

Sir, I desire to say something in relation to this Bill. Prohibition was one of the principal items in the plank of the Indian National Congress. It passed a resolution on that subject so far back as 1912. Sir, no step, however, was taken to carry the resolution into effect. Public opinion in the meantime, however, was gathering volume and momentum and so we find that in 1925, a very largely-signed memorial was submitted to the Viceroy urging Prohibition and in the same year a non-official resolution was passed in the Central Legislature.

Sir, three years after when the All Parties Conference met, Prohibition figured as a fundamental item in its deliberations. It was, however, left to Mahatma Gandhi to urge all Provincial Governments under the Congress charge to translate into action what was one of the election pledges of the Congress, namely, Prohibition, with the result that the Madras Government under Shree Rajagopalachariar took up legislation and enforced Prohibition, which entailed a loss of Rs. 66 lakhs in revenue which was made up by tapping other sources and by reducing expenditure.

Bombay and the Central Provinces followed suit and it is well-known how in spite of opposition from very powerful quarters, the scheme of Prohibition, entailing a loss of Rs. 25 lakhs in the case of the former and of Rs. 9½ lakhs in the case of the latter, is being

rigorously enforced. The Hon'ble Home Minister of Bombay seemed to think that the loss, both direct and indirect, in the case of Bombay was no less than Rs. 120 lakhs, but he observed that the merchants gained no less than Rs. 320 lakhs on account of Prohibition by reason of the increased purchasing power of those who gave up drink.

Sir, this points to a moral. With the giving up of the drink-habit, the addicts become not only moral but at the same time more healthy and more efficient and, therefore, capable of earning more money. There is peace and happiness in the family where ere this there was bestiality and quarrel.

Take another instance. The United Provinces lost Rs. 37 lakhs in revenue over their Prohibition scheme. There, Prohibition was first introduced in two districts and then extended to four more districts. In spite of this loss, the Government there have been going on more efficiently by adopting a policy of rigid economy and by tapping other sources of revenue without touching the poor. Similarly, in Bihar there was a loss of Rs. 10 lakhs, in Orissa about Rs. 9½ lakhs and in Assam Rs. 14 lakhs; in the case of the latter, the restrictions imposed being in respect of *ganja* and *bhang*.

Compared with them, the efforts of the Bengal Government seem to be trifling and ridiculous. Sir, excise contributes about one-sixth of Bengal's revenue and the experiment tried at Noakhali has resulted in the licences of only six liquor shops being cancelled entailing a loss of Government revenue to the extent of Rs. 4,000 only. On the other hand, I am sorry to remark they have refused so far to take any steps with regard to the cancellation of the licences of 32 shops selling opium, *ganja* and *bhang* which yield a revenue of Rs. 32,000 in Noakhali every year.

The necessity of Prohibition is urgent now, because the drink-habit has not become widespread in the countryside, although it is very rampant in big towns and business centres. The evil must be nipped in the bud. Taking India as a whole, its necessity has come from the fact that while in 1920, the Excise yielded a revenue of Rs. 69 millions, it was Rs. 235 millions in 1928 and Rs. 1,000 millions in 1934. The object of this Bill is to introduce in Bengal the principle of Prohibition as the drink evil is detrimental to the best interests of people residing in it. In this connection, I may inform the House that instead of amendments to the existing Acts, separate legislation has been undertaken for two reasons. Firstly, as prohibition is to be confined for the present to the traffic and use of liquor alone, it will be convenient to have a special Act regulating the matter. Secondly, it is felt that a momentous measure of this nature should have the approval of the Legislature in a more impressive form than would be possible in the case of an amendment to an Act framed to conform to an entirely

different attitude towards the question. The Bill is modelled on the lines of the Bills which were passed in Madras and subsequently followed in the Central Provinces. It will give the Government authority to introduce Prohibition only in selected areas and with power to extend to several other areas if the experiment is found to be successful. Sir, it penalises all traffic in and consumption of liquor but at the same time, it provides for exemption of rectified spirit for medical, scientific and industrial purposes; for exemption in regard to the purchase, consumption and possession of liquor to Europeans and members of the Military, Naval and Air Forces; for the grant of personal permits to those who in the opinion of Government may be specially exempted and permitted to keep and consume foreign liquor and for the issue of licences to clubs and other institutions to possess foreign liquor and issue it to its members. These concessions will be made only in favour of those who by long habit cannot dispense with the use of foreign liquor and who are not likely to abuse them. These, in short, are the provisions that have been incorporated in this Bill.

I must, Sir, in conclusion congratulate the Government for having given me this opportunity for bringing this Bill and thus enabling me to make an attempt to bring the Government into line with others in India.

Mr. PRESIDENT: Motion moved: that the Bengal Prohibition Bill, 1938, be referred to a Select Committee consisting of—

(1) The Hon'ble Mr. Prasanna Deb Raikut, Minister in charge of the Forest and Excise Department,

(2) Alhadj Khan Bahadur Shaikh Muhammad Jan,

(3) Khan Sahib Abdul Hamid Chowdhury,

(4) Khan Bahadur M. Abdul Karim.

(5) Mr. W. B. G. Laidlaw,

(6) Mr. Naresh Nath Mookerjee,

(7) Rai Brojendra Mohan Maitra Bahadur,

(8) Raja Bhupendra Narayan Sinha Bahadur,

(9) Mr. Nur Ahmed,

(10) Mr. Shrish Chandra Chakraverti, and

(11) the mover,

with instructions to submit their report by the 31st December, 1939, and that the number of members whose presence shall be necessary to constitute a quorum shall be four.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, may I at this stage object to the honourable member moving this motion, because he has not taken previous sanction of the Governor? As this

Bill involves expenditure from the revenues of the province, under section 82 (3) of the Government of India Act, 1935, this Bill cannot be moved without such previous sanction.

Mr. PRESIDENT: What are the particular provisions in this Bill which, in your opinion, offend against section 82 (3) of the Government of India Act, 1935?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: May I draw your attention to clause 4 of this Bill? It says, "The Provincial Government may by notification appoint an officer called Prohibition Commissioner"; so, that there is here the provision for appointment. Under sub-clause (c) of clause 4, Government may appoint paid or honorary officers with such designations, powers and duties as may be prescribed. That involves expenditure from the public revenues.

Mr. PRESIDENT: Any other clause?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: There are other clauses also. Prohibition entails expenditure. Without expenditure you cannot bring this legislation into operation. Government will have to appoint not only superior officers but also a large number of menial staff. If this Bill is passed and becomes the law of the land, it would involve expenditure.

Mr. PRESIDENT: You are referring to section 82 (3) of the Government of India Act, 1935. It says: "A Bill which, if enacted and brought into operation, would involve expenditure from the revenues of a province shall not *be passed* by a Chamber of the Legislature.....". That makes a distinction between introduction and passing. According to this section, a Bill shall not *be passed* by a Chamber of the Legislature unless the Governor has recommended to that Chamber the consideration of the Bill. Further, my attention has been drawn by the office to the fact that I admitted its introduction only. I find that the meaning of the section is clear. The motion before the House is not for *passing* of the Bill. It is only for reference to a Select Committee. It may so happen that unless the honourable member, who has given notice of this Bill, obtains the Governor's sanction, then in the Select Committee they may move for the exclusion of particular passages that offend against this section regarding expenditure of money. Will the Hon'ble Minister please explain how he can object to the Bill being referred to the Select Committee?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: My submission is that by reference of the Bill to the Select Committee the House will get committed to the principle of the Bill. In the section I quoted, it

is mentioned that if a Bill which, if enacted and brought into operation, would involve expenditure from the revenues of a province, it should not *be passed* by a Chamber of the Legislature unless the Governor has recommended to that Chamber the consideration of the Bill.

Sir, reference to Select Committee is an important stage in a Bill. If the House accepts this motion, then the House will get committed to the principle of the Bill and the House will be considering the principle underlying the Bill at this stage. So, unless the word "consideration" is interpreted in a very narrow and technical sense, this is a motion for the consideration of the measure. That is my submission.

Mr. PRESIDENT: I have considered the point raised by the Hon'ble Minister. My study of Parliamentary procedure convinces me that there are cases where except a few sentences of the preamble, every other clause of a Bill has been materially altered in the Select Committee. So, it is clear that there cannot be any valid objection to this Bill at this stage. The motion now before the House will only commit it to the principle underlying the Bill and not to the clauses. So, this objection is not order.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I rise to oppose the motion moved by the honourable member. The House is probably aware that Government are already experimenting on Prohibition and they have actually introduced it in one district, namely, Noakhali. The honourable member, the mover of the Bill, himself recognises the necessity of such experiment as is evident from the Statement of Objects and Reasons of this Bill in which he says: "The Bill is modelled on the corresponding legislation in regard to Prohibition in the Central Provinces which followed the Madras line, It gives Government the authority to introduce Prohibition in selected areas with power to extend it to other areas as time and experience enable such extensions to be made." So, the honourable member himself recognises that before Government finally accept Prohibition as a policy or try to accept it as a practical measure, they must acquire some amount of experience and knowledge. Government have already started experimenting in one district. So, it will be a mistake, if I may submit with very great respect, for the House to accept this Bill and thereby commit itself to the principles of the measure without giving the Government an opportunity to find out how things work at least in one district. Government have certainly undertaken the experiment with a view to extend the measure to other districts if the experiment proves a success. So, the whole thing hinges on the results of the experiment. It would rather be putting the cart before the horse if the principles of this Bill are accepted at this stage. So,

I would request honourable members to bear this fact in mind that Government have already agreed to experiment with Prohibition in one district and they have agreed to sacrifice some amount of Government revenue over it but before they commit themselves finally to this principle, they must be convinced that this is going to be a success.

With these few words, Sir, I oppose the motion and I would request the honourable members to vote against the motion.

Mr. HUMAYUN KABIR: Sir, I regret that I cannot regard the speech of the Hon'ble Sir Bijoy Prasad Singh Roy as anything but astonishing. He has certainly given us news. The Hon'ble Chief Minister and other Ministers on behalf of the Cabinet have said to the country on more occasions than one that the Government are committed to the principle of Prohibition, but to-day Sir Bijoy comes and tells us that if this House is committed to the principle of Prohibition, it would be committing itself to something to which the Government are not prepared to commit themselves.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I rise to a point of personal explanation, Sir. I did not say that the House would commit itself to the principle of Prohibition but to the principle of this measure.

Mr. HUMAYUN KABIR: I accept the correction but even then my criticism would remain. The main purpose of this Bill is to introduce Prohibition over the whole of Bengal. With regard to the machinery which may be set up in order to make Prohibition effective, you yourself have just now pointed out that there is nothing sacrosanct about the Bill. In the Select Committee any amount of changes may be introduced in order to make it acceptable to the opinion which the Government have with regard to the suitability of such machinery. Therefore, Sir, from whatever point of view we look at it, this Bill is concerned with the main question of Prohibition in Bengal and the principle involved is the principle of enforcing the same in Bengal. Therefore, Sir, if Sir Bijoy will oppose the principle of this Bill, he will, in effect, even though he has not said it in actual words, be opposing the principle of Prohibition, and I think, Sir, Government cannot be a party to what Sir Bijoy has said. Government is committed to the principle of Prohibition, and I would request the Hon'ble Premier since he is present here to-day, to elucidate the point of view of Government on this matter. It may be that there are certain defects in Mr. Das's Bill. That is why he has moved for reference to a Select Committee where these defects can be remedied.

Then, with regard to the other point that it would be like putting the cart before the horse, I again fail to see any logic in what Sir Bijoy has said. The experiment at Noakhali was made 2½ years ago or at

least two years ago when Government enforced Prohibition on a Lilliputian and minute scale. One cannot but call it Lilliputian because there are only four wine shops in Noakhali, and the total revenue to Government derived from that source used to be only Rs. 4,000 a year. As against that, there are in Noakhali itself a large number of excise shops which deal with opium and *ganja*, as pointed out by the honourable mover of this Bill. These have not been touched at all. This Bill is based on the spirit of the experiment which Government introduced two years ago. If after two years of experiment on a small scale, Government do not want this movement to grow, if Government do not want this experiment to be extended to the other districts, or to the other aspects of the Prohibition problem in the district of Noakhali itself, I think that the corollary which everyone will draw will be that Government do not want to accept the principle of Prohibition. They are keeping to the letter of the law but breaking the spirit. Will they tell the honourable mover and the House and the electorate, "We believe in Prohibition and yet we do not think that Prohibition should be enforced in the province as a whole ?"

I think, Sir, the Bill which the honourable member has moved gives sufficient scope to Government. It is not necessary that Prohibition should be introduced in every district in Bengal just now. It proposes that it should be extended to those areas which Government think suitable but the only idea is that the principle of Prohibition should be definitely accepted and some practical shape should be given to this principle. We must have some proof of the bona-fides of Government and I am constrained to say that, as a result of our experience for the last 2½ years, proof of this bona-fides has not yet been given. I think that for that reason this Bill has been moved, and I would request Government to accept this Bill or, at any rate, accept the principle underlying the Bill and send it to a select committee where I am sure they will adopt such amendments as they want.

With these words, Sir, I support the motion moved by Mr. Lalit Chandra Das.

Mr. PRESIDENT: Khan Bahadur Maulvi Muhammad Ibrahim has given notice of an amendment but unfortunately it offends against section 56 of our rules. On a select committee we can only have eleven members. In his amendment the Khan Bahadur wants to add two more members. So, his amendment is out of order.

The Hon'ble Mr. A. K. FAZLUL HUQ: Sir, even if my friend Mr. Humayun Kabir had not made some reference to me, I would have intervened in this debate in order to make the position of Government clear in order that we may not be misunderstood.

Sir, as a Moslem and, I hope, a sincere Moslem, I am extremely anxious that not merely the members of this House but the great world outside should accept the principle of "no-drink" which is one of the main pillars of our Faith. There is a good deal of loose talk about Prohibition, and I wish to place before the House the knowledge and the experience that we have gained in matters relating to a policy of this kind. Let me make it abundantly clear, and let me emphasise as strongly as possible, that the Hon'ble Sir Bijoy Prasad Singh Roy is not opposed to the policy of Prohibition but to the principle underlying this Bill. It is one thing to agree that there should be Prohibition in the land; it is quite a different thing to agree that the object should be attained by a particular Bill or by a particular method. Therefore, I would ask the House to remember that although we are opposing the provisions of this Bill,—the principle underlying the method in which the Bill has been drafted,—we do not for a moment say that Prohibition is not a good thing or that it is not the duty of Government to see that Prohibition is enforced in the country.

Passing, Sir, from the theoretical comments, let me place certain facts bfore the House. A little more than two years ago, in the course of a debate on a cut motion on the budget I declared in the Legislative Assembly that the introduction of Prohibition is one of the accepted policies of our Government. In pursuance of that announcement, we tried to find out a suitable area for the purpose of carrying on the experiment. Let me explain to the House that Prohibition cannot be introduced merely by a stroke of the pen or merely by promulgating some kind of law or Ordinance that the people shall not drink. There are people who are addicted to drink, and there are people who would forego a morsel of food but would not agree to give up even an ounce of drink. I was once travelling on board an ocean liner and I was told that one of the most effective methods of punishing the sailors was to pour water into their wine cellar. They would agree to go without food but not without wine. I do not want to say that this propensity is universal, but there it exists. Now, if you introduce Prohibition in any area, you must have two sets of officers in order to carry out your policy—one set of officers must see that there is no sale or purchase of drink and the other set of officers to see that there is no surreptitious introduction into or surreptitious sale of drink in that area. If you take up any particular district what you have to do is to have a large body of officers in order to see that the principle of Prohibition is strictly carried out and a much larger body of officers placed all along the boundaries of the district, so that there may not be illicit traffic from outside. Unless you introduce Prohibition all over Bengal simultaneously and also prevent liquor coming into Bengal from the neighbouring provinces, this is the policy that you will have to adopt. Bearing all this into consideration, we

chose Noakhali, the reason being that on two sides the sea and we had not to arrange for any protection whatsoever in those directions. In Noakhali—it is a small district but it is not correct that we lost revenue only to the tune of Rs. 4,000 a year—we lost Rs. 30,000 but then we had to spend very much more in order to see that liquor is not imported from Comilla or from Chittagong. As a matter of fact, it has resulted in a loss of revenue to the tune of Rs. 30,000 and also extra cost of something more than that amount.

Mr. LALIT CHANDRA DAS: In how many years?

The Hon'ble Mr. A. K. FAZLUL HUQ: In two years. We have been thinking of extending the Prohibition operations either to Comilla or to Chittagong,—we have not yet been able to decide to which district. Possibly, we shall extend the operation to one of the two districts. It is true that it is a slow process, but, Sir, I do not make any comment on any religious system different from our own, but I claim that in the history of the world there was only one instance in which a man's word absolutely wiped out the drink habit, and that was the voice of our Holy Prophet. He gave out the Command that the people shall not drink and drink was stopped from that moment but feeble mortals as we are, we cannot make people give up their habit of drinking simply by a fiat or a mere stroke of the pen.

Now, Sir, a good deal has been made in the press, and we have been ridiculed because Bombay has undertaken prohibition.

Mr. LALIT CHANDRA DAS: Why Bombay alone? Six other provinces also have done it.

The Hon'ble Mr. A. K. FAZLUL HUQ: Yes, I know that. I am taking the provinces one by one. Mr. Das does not know but I know. I had been to Bombay and even in Bombay I have been told that although Prohibition has been introduced, what are the people doing? They now carry on much better traffic in illicit traffic on the sea. They go out to the sea a few miles away and there carry on the traffic because it is outside the prohibited area.

Mr. LALIT CHANDRA DAS: Question.

The Hon'ble Mr. A. K. FAZLUL HUQ: In Madras, there has been breaking of heads and people have been sent to jail, but I do not think that even in Madras Prohibition has succeeded to any appreciable extent.

Mr. LALIT CHANDRA DAS: Why don't you do it yourself?

The Hon'ble Mr. A. K. FAZLUL HUQ: So far as Bengal is concerned, we do not stand on sentiments. We claim to be practical men. A Government cannot be carried on by mere sentiments. As a mere expression of sentiment, it is all very good to have Prohibition with flags and little boys crying "Prohibition Zindabad" (laughter), but this does not bring in Prohibition. People should be taught that drink is an evil, and it is from the moral point of view and by putting moral pressure and not by bringing in a legislation of this kind that you will succeed in introducing Prohibition. Let us wait for the day. (Laughter.)

Now what I propose to do is this. I would ask my honourable friend to consider this. I am sorry that in spite of my ardent sympathy with the object which he has in view, we have been constrained to oppose the motion. But that does not mean that we are opposed to what he has in view. We entirely agree with him that there must be some kind of Prohibition and somehow or other by moral persuasion or by force or even by legislation poor people should be made to give up this very bad habit of drinking. If my friend will give us time, we want to proceed not as slowly as we have done in the past but possibly we may quicken the pace and if that will satisfy my friend we might take up Comilla and Chittagong. We might give preference to Comilla, my friend's district, out of deference to his wishes. That is the honour that we can do to my friends Mr. Lalit Chandra Das and Mr. Kamini Kumar Dutta.

Mr. LALIT CHANDRA DAS: Why not Barisal?

The Hon'ble Mr. A. K. FAZLUL HUQ: Barisal is a bad district to take up because the people of Barisal are not very much amenable to reason.

Mr. SRISH CHANDRA CHAKRAVERTI: That we know very well.

The Hon'ble Mr. A. K. FAZLUL HUQ: Therefore, Sir, I think that although my friends here may vote against the motion, we are all with the mover in his desire and attempt to bring about Prohibition. All that the Bill wants is that Government should take certain powers to do certain things. We will take them; that is to say, I give this assurance to the House that we will take up one or two districts in the near future and will introduce Prohibition there also. Let us see how on an extended area, viz., in the districts of the Chittagong Division, it works. I may ask the House to remember that Bengal is not at the present moment in a position to incur any heavy financial responsibility. In the first place, we have been hard put to it in order to

find money for primary education. The method of introducing primary education—free and compulsory primary education—is beset with great difficulties. Wherever we want to impose the cess, objections come and even after the cess has been introduced, objections come with the result that the whole system is on the point of breaking down. We will have to get Rs. 3 or 4 crores a year for the purpose of primary education. Then, there are various other things. We are not lucky like Bombay or Madras. We have got a rigid land revenue system and we cannot get one single pice from that source. The other provinces are free to introduce taxation and enhance the revenue, but we are not. Therefore I would ask——

Mr. HUMAYUN KABIR: What about agricultural income-tax?

The Hon'ble Mr. A. K. FAZLUL HUQ: At the present moment, I must say that the landlords are hit already. If we want to squeeze them further, we will have to consider the net result of that measure. So far as the tax on agricultural income is concerned, I don't say anything at the moment. I am not committed to it one way or the other. All I say is that at present our resources are limited. I would ask the House to consider whether in these circumstances it would be wise to saddle the Government with further responsibility and expenditure. From that point of view, I would ask my honourable friend to withdraw the motion and have a conference with us to find out what we have been doing and what we intend to do. Sir, having given him the assurance that his main objective will be kept in view by the Government, I would join Khan Bahadur Ataur Rahman in asking my friend to withdraw the motion.

Khan Bahadur ATAUR RAHMAN: Please do. Don't waste time.

Mr. LALIT CHANDRA DAS: Sir, the Hon'ble Premier has asked me to withdraw this motion. Unfortunately, Sir, I find myself quite unable to comply with his request. The Hon'ble Sir Bijoy Prasad Singh Roy referred to the experiment at Noakhali. If the experiment at Noakhali be looked into, it would be seen that the Government really have no heart behind this experiment; because, at Noakhali, so far as my information goes, there has been a cancellation of licences with respect to only 6 liquor shops whereas they have refused to cancel the licences with respect of 32 shops which yielded a revenue of Rs. 30,000 per year and these shops deal in *ganja*, *bhang* and other narcotics which ruin the health of the illiterate classes of the people. That is a solid fact and the House must consider whether this experiment is a mere make-believe or is really an earnest experiment by the Government with a view to bring about Prohibition. At

a time when the rest of India is very earnest, at a time when Bombay sacrifices over a crore of rupees, at a time when Madras, the Central Provinces and other provinces sacrifice lakhs of rupees by adopting Prohibition, Bengal only lags behind; Bengal only shows an expenditure of Rs. 4,000. At the same time, they refuse to abolish those shops which require to be abolished. My submission is that as a matter of fact the experiment that the Government are making is a mere make-believe.

Then, another point that has been made by the Hon'ble Premier is about the loss of revenue and in this connection the question of free and compulsory primary education has been brought before the House to scare the members away. Even if this Bill be given up, the members of the House may rest assured that no greater step will be taken for the purpose of introducing free and compulsory primary education in Bengal. If they really mean to give us free and compulsory primary education in Bengal, there are other means which my friend may look into. One of the means is to tax agricultural incomes; another means is to earmark the jute tax and the third means—and that would be the most effective means conceivable which would enable the Government to actually realise their desire for a free and compulsory primary education—is to nationalise the jute industry. Once the jute industry is nationalised, I am quite sure this free and compulsory primary education problem will be very easy of solution. So, Sir, when the Premier actually tells the members of this House that they will be very hard hit by this expenditure, they should not be scared away. What after all is the measure? In this measure, all that has been urged is the acceptance of the principle of Prohibition and to experiment with it in certain particular areas. It would be open to Government, if the experiment succeeds in particular districts, to extend it to other districts. This is what has been done in the Central Provinces and this is what is being done in Bombay. Therefore, Sir, when it is only a question of the acceptance of the principle of Prohibition, the House should not be scared away by arguments which are not relevant to the purpose of this Bill.

Sir, with these few words, I submit that this Prohibition Bill should be referred to the Select Committee.

Mr. PRESIDENT: The question before the House is: that the Bengal Prohibition Bill, 1938, be referred to a Select Committee consisting of—

(1) The Hon'ble Mr. Prasanna Deb Raikut, Minister in charge of the Forest and Excise Department,

(2) Alhadj Khan Bahadur Shaikh Muhammad Jan,

(3) Khan Sahib Abdul Hamid Chowdhury,

(4) Khan Bahadur M. Abdul Karim,

(5) Mr. W. B. G. Laidlaw,

(6) Mr. Naresh Nath Mookerjee,

(7) Rai Brojendra Mohan Maitra Bahadur,

(8) Raja Bhupendra Narayan Sinha Bahadur,

(9) Mr. Nur Ahmed,

(10) Mr. Shrish Chandra Chakraverti, and

(11) the mover,

with instructions to submit their report by the 31st December, 1939, and that the number of members whose presence shall be necessary to constitute a quorum shall be four.

The House divided:—

AYES—10.

Chakravarti, Mr. Shrish Chandra.
Das, Mr. Lalit Chandra.
Dutta, Mr. Bankim Chandra.
Dutta, Mr. Kamini Kumar.
Goswami, Mr. Kanai Lal.
Kabir, Mr. Humayun.
Maitra, Rai Bahadur Brojendra Mohan.
Mookerjee, Mr. Naresh Nath.
Poddar, Mr. H. P.
Roy, Amulya Dhone.

NOES—23.

Ahmed, Mr. Mesbahuddin.
Baksh, Mr. Kader.
Chowdhury, Mr. Khorshed Alam.
Chowdhury, Mr. Hamidul Huq.
Cohen, Mr. D. J.
D'Rozario, Mrs. K.
Hossain, Mr. Latafat.
Hunter, Mr. H. C. A.
Karim, Khan Bahadur M. Abdul.
Khan, Khan Bahadur Muhammad Asaf.
Khan, Maulana Muhammad Akram.
Laidlaw, Mr. W. B. G.
Mackay, Mr. H. G. G.
Molla, Khan Sahib Subidali.
Momin, Begum Hamida.
Ormond, Mr. E. C.
Rahman, Khan Bahadur Ataur.
Rahman, Khan Bahadur Mukhlesur.
Rashid, Khan Bahadur Kazi Abdur.
Ray, Mr. Nagendra Narayan.
Roy, Rai Bahadur Radhica Bhusan.
Shamsuzzoha, Khan Bahadur M.
Singh Roy, Mr. Saileswar.

The motion was negatived.

The Bengal Primary Education (Amendment) Bill, 1937.

Mr. NUR AHMED: Mr. President, Sir, I beg to move that the Bill be referred to a Select Committee consisting of—

(1) The Hon'ble Mr. A. K. Fazlul Huq, Minister-in-charge of the Education Department,

(2) Dr. Radha Kumud Mookerji,

(3) Begum Hamida Momin,

(4) Maulana Muhammad Akram Khan,

(5) Mr. Humayun Kabir,

(6) Rai Sahib Indu Bhusan Sarkar,

(7) Khan Bahadur Ataur Rahman,

(8) Mr. W. F. Scott-Kerr,

(9) Khan Bahadur Maulvi Muhammad Ibrahim,

(10) Mr. Kader Baksh, and

(11) the mover,

with instructions to submit their report within two months from the date of reference and that the number of members whose presence shall be necessary to constitute a quorum shall be five.

Sir, this is a very simple amending Bill the main principles of which I explained at length before the House when once before I moved a similar Bill for reference to a Select Committee. That was long ago.

I shall very briefly recapitulate the main features of the Bill. In this Bill, power has been given to Government to provide compulsory facilities for spread of mass education within municipal areas; power has also been given to Government to direct municipalities to submit a scheme within the course of five years and to appoint a school committee as defined in the Bill. These are the main principles of the Bill.

As the time is very short, I will only refer to the recommendations made by the Hartog Committee, for creating public opinion about compulsory primary education in Bengal. It will appear from those recommendations that they asked Government to enforce compulsion in the matter of primary education in the municipal areas. It will also appear that in this respect other provinces are ahead of Bengal.

With these words, Sir, I commend my motion to the acceptance of the House.

Mr. PRESIDENT: Before I put the motion to the House, I would draw the attention of the honourable member to refer to section 56 sub-section (2) of our rules where it is stated ".....other members of the select committee shall be named as members in the motion proposing the appointment of the committee in such a manner as to represent, as far as possible, the different parties in the Council." In this motion, the principal Opposition Party has been given only one place.

Motion moved that the Bengal Primary Education (Amendment) Bill, 1937, be referred to a Select Committee consisting of—

(1) The Hon'ble Mr. A. K. Fazlul Huq, Minister-in-charge of the Education Department,

(2) Dr. Radha Kumud Mookerji,

(3) Begum Hamida Momin,

(4) Maulana Muhammad Akram Khan,
(5) Mr. Humayun Kabir,
(6) Rai Sahib Indu Bhusan Sarkar,
(7) Khan Bahadur Ataur Rahman,
(8) Mr. W. F. Scott-Kerr,
(9) Khan Bahadur Maulvi Muhammad Ibrahim,
(10) Mr. Kader Baksh, and
(11) the mover,

with instructions to submit their report within two months from the date of reference and that the number of members whose presence shall be necessary to constitute a quorum shall be five.

I have received notice of an amendment from the Hon'ble Mr. A. K. Fazlul Huq which, for special reasons, I shall permit him to move.

The Hon'ble Mr. A. K. FAZLUL HUQ: Sir, I beg to move that the Bill be re-circulated for eliciting public opinion thereon by the 30th June, 1940.

Sir, so far as the Bill is concerned, the Statement of Objects and Reasons makes it clear that the main object of the honourable member is to provide for compulsory attendance at a school of children of the ages between 6 and 11 within the course of five years and also to make provision for religious instructions in primary schools.

Now, Sir, before you can make education compulsory, you must give facilities to the people for imparting the education which you want to make compulsory. It is no use asking people to send their children to schools if for some reason or other they have got no schools within their reach to which to send their boys. Before, therefore, compulsion can be applied, it is necessary that provision should be made for schools within easy reach of boys and girls of tender age. What is now the position? The honourable member has himself admitted that since the Act was passed in the year 1919, now 19 years ago, out of 128 municipalities only one municipality, namely, the one which the honourable mover himself represents, has been able to introduce free primary education for boys alone within the municipal area. The other 127 municipalities have not come forward to take any steps to have primary schools introduced within the municipal limits. The reason has been that this scheme, according to which compulsion is to be introduced on the basis of a contribution of half and half by Government and the municipalities, has not worked satisfactorily. As the honourable member has himself admitted in his Statement of Objects and Reasons, local bodies have not come forward to contribute their half of the contribution which is preliminary

to the Government contributing the other half. In these circumstances, it is doubtful whether it is possible to introduce free primary education even for boys in municipal areas unless Government undertakes to find practically the whole of the cost. This again would be an enormous sum, and when this Bill was circulated on a previous occasion, we received opinions from a few persons and very restricted associations. The public at large did not seem to be very much impressed with the necessity or even if they were impressed with the necessity of primary education, they did not come forward either to accept the scheme or suggest any other alternative method. In these circumstances, Sir, considering the financial implications involved, I would ask the honourable member to accept my suggestion and accept the motion for re-circulation, and when public opinion has been further elicited and we can find out roughly the position where we stand we may be able to consider what further steps to take in the matter of the introduction of primary education in municipal areas.

With these few words, Sir, and assuring the honourable mover and the honourable members of this House that we are not unmindful of our duty in seeing that primary education is introduced not merely in rural but also in municipal areas, I would ask the honourable member to consent to my motion being accepted by the House.

Mr. PRESIDENT: Amendment moved: that the Bill be re-circulated for eliciting public opinion thereon by the 30th June, 1940.

The question before the House is the motion: that the Bengal Primary Education (Amendment) Bill, 1937, be re-circulated for eliciting public opinion thereon by the 30th June, 1940.

The motion was agreed to.

Khan Bahadur ATAUR RAHMAN: *May I get your permission, Sir, to introduce my Bill? There are several Bills for introduction and Bill No. 17 stands in my name. If I get your permission, Sir, I can move it.*

Mr. BANKIM CHANDRA DATTA: May I move my Bill first, Sir, in view of the fact that there is a privilege Bill standing in my name? If my honourable friend kindly gives in and allows me to move this Bill in preference to his, I can move it. This is a Bill which concerns the rights and privileges of this House, and so I do not think that he will object to this particular Bill being moved first.

Mr. PRESIDENT: As a special case, I permit these two Bills being moved,

Mr. HAMIDUL HUQ CHOWDHURY: May I make the same request with regard to the Bill standing in my name?

Mr. PRESIDENT: Order, order. You can move it after these two Bills are introduced.

The Bengal Ferries (Amendment) Bill, 1939.

Khan Bahadur ATAUR RAHMAN: Sir, I beg to move for leave to introduce the Bengal Ferries (Amendment) Bill, 1939.

The motion was put and agreed to.

The Secretary then read the short title of the Bill.

The Bengal Council Powers and Privileges Bill, 1939.

Mr. BANKIM CHANDRA DUTTA: Sir, I beg to move for leave to introduce the Bengal Legislative Council Powers and Privileges Bill, 1939.

The motion was put and agreed to.

The Secretary then read the short title of the Bill.

The Bengal Stock Brokers Bill, 1938.

Mr. HAMIDUL HUQ CHOWDHURY: Sir, I beg to move for leave to introduce the Bengal Stock Brokers Bill, 1938.

The motion was put and agreed to.

The Secretary then read the short title of the Bill.

The Bengal Patni Taluks Regulation (Amendment) Bill, 1939.

Khan Sahib ABDUL HAMID CHOWDHURY: Sir, I beg to move for leave to introduce the Bengal Patni Taluks Regulation (Amendment) Bill, 1939.

The motion was put and agreed to.

The Secretary then read the short title of the Bill.

The Eastern Bengal and Assam Disorderly House (Amendment) Bill, 1939.

Mr. NUR AHMED: Sir, I beg to move for leave to introduce the Eastern Bengal and Assam Disorderly House (Amendment) Bill, 1939.

The motion was put and agreed to.

The Secretary then read the short title of the Bill.

Mr. PRESIDENT: I adjourn the Council till 2-15 p.m. on Wednesday, the 6th December, 1939.

Adjournment.

The Council then adjourned till 2-15 p.m. on Wednesday, the 6th December, 1939.

Members absent.

The following members were absent from the meeting held on the 1st of December, 1939:—

(1) Khan Bahadur Naziruddin Ahmad.
(2) Rai Bahadur Manmatha Nath Bose.
(3) Mr. Humayun Reza Chowdhury.
(4) Khan Bahadur Alhaj Khwaja Muhammad Esmail.
(5) Nawabzada Kamruddin Haider.
(6) Khan Bahadur Saiyed Muazzamuddin Hosain.
(7) Mr. Mohamed Hossain.
(8) Khan Bahadur Syed Muhammad Ghaziul Huq.
(9) Dr. Radha Kumud Mookerjee.
(10) Rai Bahadur Satis Chandra Mukherji.
(11) Mr. K. C. Roy Chowdhury.
(12) Mr. W. F. Scott-Kerr.

B. G. Press—1939-40—10461A—750.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Wednesday, the 6th December, 1939, at 2-15 p.m. being the sixth day of the Third Session, pursuant to section 62(2)(a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Further questions which remained unanswered during the May-July Session, 1939, with their answers.

Communal ratio for recruitment to public services.

142. Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister in charge of the Education Department be pleased to state—

(a) what was the existing ratio for recruiting Muhammadans to public services before the Bengal Cabinet's present decision in regard to service ratio;

(b) in what branches of public service, competitive examination is held now;

(c) what stands in the way of immediate extension of the system of competitive examination in all branches of the public service with a view to ensure selections from among the qualified candidates.

(d) why competitive examinations on communal basis will be held;

(e) whether it is a correct reading of the Cabinet's decision that in the selection of individuals already in Government service for promotion from one service to another, promotions will be made on merit alone with due regard to seniority; and

(f) whether it is also a correct reading of the Cabinet's decision that any excess over 50 per cent. obtained by non-Muslims in the matter of promotions by merit with due regard to seniority shall be counter-balanced by additional reservations for Muslims over and above 50 per cent. in direct appointment to that service?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK (on behalf of the Hon'ble Mr. A. K. Fazlul Huq): (*a*) Generally speaking, the existing ratio was 45 per cent. for Provincial Services, and 33⅓ per cent. for ministerial appointments except that the percentage for ministerial appointments in the districts of Burdwan Division ranged from 33⅓ per cent. to 15 per cent. and that for the Chittagong Hill Tracts was 4 per cent.

(*b*) Competitive examinations are held for recruitment to the Bengal Civil Service (Executive), Bengal Junior Civil Service, Bengal Police Service, Bengal Excise Service, Bengal Junior Excise Service, Upper Division in the Secretariat Clerical Service, Lower Division Clerical Service of the Secretariat and certain other offices of Government including stenographers and typists attached to the Secretariat offices.

(*c*) and (*d*) The hon'ble member is referred to paragraph 6 of the communique, and the answer to (*b*) above. The Provincial Services for which at present examinations are not prescribed require special or technical qualifications in the candidates.

(*e*) and (*f*) Yes.

Mr. LALIT CHANDRA DAS: With reference to answer (*f*), will the Hon'ble Minister be pleased to state, if it is counter-balanced by additional reservations for Muslims over and above 50 per cent. in direct appointment to that service, how it is fifty-fifty per cent. of the services for new entrants?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: So far as direct recruitment is concerned, it is always on the 50 per cent. basis according to the new decision taken by Government. With regard to promotion, as has been indicated in the answer, it is based upon merit coupled with seniority. If the figure does not come up to that standard, the balance will be made up by giving half to the community which does not get it.

Protection of the Indian settlers in Burma.

143. Mr. NUR AHMED: (*a*) With reference to his replies to my question No. 150 answered on the 2nd May, 1939, will the Hon'ble Minister in charge of the Home Department be pleased to state if he proposes to make a strong representation to the Government of India to take such steps as they think proper to protect Indian life and properties at present in Burma?

(*b*) Has the attention of the Hon'ble Minister been drawn to the report of the Enquiry Committee mentioned in the said reply to my said question? If so, will he be pleased to state what is the amount

of loss suffered by the Bengalee settlers in Burma and also the number of persons who lost lives and the number of persons who were injured during the recent riots in Burma?

(c) Has the attention of the Hon'ble Minister been drawn to the activities of a section of the Burmese people designed to restrict the immigration of Indians to Burma?

(d) Will the Hon'ble Minister be pleased to state what further steps since August last he has taken to safeguard the interests of the Bengalee settlers in Burma?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): (a) No.

(b) The hon'ble member is referred to the interim and final reports of the Committee, copies of which have been placed on the Library table. The reports provide statistics in appendices X and XI but in so far as loss and injuries to Bengalees are concerned, the figures are merged in those of Indians generally, except in the case of the financial claims of the Bengalee settlers in Rangoon itself, which are given as Rs. 7,66,163.

(c) and (d) No. The matter of immigration into Burma, Sir, is not within my special cognisance, but I understand that the Government of Burma intend to set up a Commission to enquire into the problem of Indian immigration into Burma and that the appropriate Department of this Government have requested that the Government of Bengal should be consulted after the Commission has reported and before any decision is taken on its report.

Arrest of Babu Rasamay Majumdar of Noakhali.

144. Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister in charge of the Home Department kindly state—

(a) whether Babu Rasamay Majumdar was arrested on 7th June last at police-station Senbag, Noakhali, on a charge of sedition and preaching class-hatred;

(b) whether Sj. Majumdar was confined in the Senbag police lock-up, and had to pass the night there on the bare and damp floor and whether his clothings, beddings, mosquito-curtains, even a hand-fan, offered by his people for his use were refused by the local thana officers; if so, why;

(c) whether Sj. Majumdar was led from Senbag police-station to Noakhali under handcuff and with a rope tied round his waist; if so, why;

(*d*) whether Sj. Majumdar was ordered to walk thus handcuffed and tied with rope from Senbag police-station to Chaumuhani railway station, a distance of 10 miles, on 8th June at noontime and under the sun until Sj. Majumdar's relations paid the taxi-fare for carrying him and his police escorts;

(*e*) whether Sj. Majumdar was carried through the town of Noakhali with handcuffs on and rope round his waist to the local thana and the Court;

(*f*) whether on an application filed on his behalf, the trying Magistrate directed him to be classified as Division A prisoner;

(*g*) whether after that he was carried from the Court premises to the jail on foot sharing the same handcuff with another person accused of robbery, and a rope was again tied round the waist of Sj. Majumdar, if so, why;

(*h*) whether bail was refused to Sj. Majumdar even though responsible lawyers were ready to stand surety for him; and

(*i*) whether Sj. Majumdar is a graduate, was a teacher in a high school previous to his detention, and happened to be the Secretary of the District Kisan Sabha, and a prominent public man in the district?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) Yes.

(*b*) He was arrested in the evening and detained in the lock-up for the night. The room was quite dry with a *pucca* floor and he was provided with blankets as well as a pillow furnished by the Officer in charge. His relatives did not offer any bedding, etc., and no such offer was consequently refused.

(*c*) He was led handcuffed and roped for a small part of the journey as the escort party had reason to apprehend from the attitude of a hostile crowd that an attempt might be made to rescue the prisoner.

(*d*) He was despatched from thana at 6-5 a.m. and was taken in a taxi as soon as one was available. The relatives of the prisoner provided a taxi before the escort party had been able to procure one for which they were looking out.

(*e*) and (*g*) No.

(*f*) Yes.

(*h*) Yes. Bail was refused as the warrant on which he was arrested was non-bailable.

(*i*) He is a graduate, was a teacher in a village high school before detention and is the Secretary of a so-called District Kisan Sabha.

Mr. LALIT CHANDRA DAS: Arising out of answer (*c*), will the Hon'ble Minister be pleased to explain how roping a respectable person can prevent him from being rescued by a hostile crowd?

The Hon'ble Khwaja Sir NAZIMUDDIN: I think the answer is obvious. You have more control over the person if you are holding him by a rope than if your are to let him loose; and if you are separate from the man, four people might collect round him and he is off.

Mr. LALIT CHANDRA DAS: Can you prevent him from being rescued if the crowd is really hostile? Was not this roping really intended to insult him for nothing?

The Hon'ble Khwaja Sir NAZIMUDDIN: There would have been no occasion for it if there had not been any hostile crowd making demonstration thereby giving the impression that they were out to rescue him.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state how many were escorting him?

The Hon'ble Khwaja Sir NAZIMUDDIN: I ask for notice, Sir.

Replies to questions of the Current Session.

The distinction between foreign and Indian qualifications.

35. **Mr. RANAJIT PAL CHOUDHURY:** Will the Hon'ble Minister in charge of the Education Department be pleased to state—

(*a*) whether his attention has been drawn to the resolution recently moved and carried at the instance of the Bombay Government whereby the distinction so long prevailing between Indian and foreign qualifications has been removed; and

(*b*) if the answer be in the affirmative, whether the Government of Bengal proposes to adopt a similar step in this Province to do away with such distinction?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK (on behalf of the Hon'ble Mr. A. K. Fazlul Huq): I have not seen the resolution referred to. I propose to obtain a copy of the debate on the motion in the Bombay Legislative Assembly and study the question.

Mr. RANAJIT PAL CHOUDHURY: Will the Hon'ble Minister be pleased to state if, after the question has been studied, he would be pleased to answer it without fresh notice?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I think, that is a hypothetical question.

Overseas scholarships to married Moslem ladies.

36. Mr. NUR AHMED: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state how many scholarships for foreign training were awarded to women by Government during the last 10 years?

(*b*) How many of these scholarships, awarded to females for training in England and other foreign countries, were awarded to Moslem females and how many to Hindu females and how many to females of other communities?

(*c*) Is it a fact that under the present rules no scholarship for foreign training can be given to a married lady?

(*d*) If so, is the Hon'ble Minister aware that this rule prevents deserving Moslem ladies from enjoying these scholarships as most of them are married?

(*e*) If so, will the Hon'ble Minister be pleased to state whether he proposes to modify these rules in such a way as would allow the benefit of such scholarships be derived by married Moslem ladies? If not, why not?

(*f*) Is it a fact that very recently a very well-qualified but married Moslem lady has applied for one such scholarship? If so, will the Hon'ble Minister be pleased to state if he is going to consider the case favourably? If not, why not?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK (on behalf of the Hon'ble Mr. A. K. Fazlul Huq): (*a*) Four.

(*b*) Two to Moslems, one to a Hindu Brahmin and the other to a Brahmo.

(*c*) No.

(*d*) and (*e*) Do not arise.

(*f*) Several Moslem ladies applied for scholarships meant for Indian women this year. One of them was granted one of the two scholarships available.

Religious education in free primary schools.

37. Khan Bahadur ATAUR RAHMAN (on behalf of Khan Bahadur Saiyed Muazzamuddin Hosain): (*a*) Will the Hon'ble Minister in charge of the Education Department kindly state if any provision for teaching of the Holy *Quoran* is contemplated in the free primary schools?

(*b*) If so, does he propose to set apart 6 hours a week for religious education and to appoint a whole-time Munshi or Maulvi in every primary school for imparting religious education, especially teachings of *Quoran*?

(*c*) Is the Government aware that unless sufficient arrangements are made for the reading of *Quoran* and *Diniah*, the present primary education will not prove beneficial to Muslim children?

(*d*) Does the Government propose to continue the present Government aid to *muktabs* till proper arrangements for the teaching of *Quoran* and *Diniah* in the free primary schools are completed?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK (on behalf of the Hon'ble Mr. A. K. Fazlul Huq): (*a*) Yes, provision for the teaching of the *Quoran* has been made in the new curriculum for primary schools and *muktabs*.

(*b*) Government have prescribed in the new curriculum four periods of 30 minutes each for the religious instruction of Muslims in all classes in primary schools and *muktabs*. Government do not propose the appointment of a whole-time teacher for religious instruction, but efforts will be made to ensure that at least one of the teachers of a primary school is trained to impart such education.

(*c*) Yes.

(*d*) Such *muktabs* as satisfy the grant-in-aid rules for the time being in force will continue to be entitled to grant-in-aid.

Separate Chamber for Council.

38. Rai Bahadur SURENDRA NARAYAN SINHA (on behalf of Raja Bhupendra Narayan Sinha Bahadur, of Nashipur): (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state whether the Government has arrived at a final decision, as promised by it at the conference held for the purpose of discussing the question of the building of a separate Chamber for the Council with a view to holding simultaneous meetings of the Council and the Assembly?

(*b*) Will he be pleased to state whether the experiment so promised was actually carried out during the period referred to in the said statement of the Hon'ble the Home Minister?

The Hon'ble Khwaja Sir NAZIMUDDIN (*a*) and (*b*) No.

Release of political prisoners.

39. Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister in charge of the Home Department please state—

(*a*) how many political prisoners are still in jail;

(*b*) how many of them have been released during the last four months; and

(*c*) how many cases are still under consideration of Government awaiting final orders for release?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) and (*c*) The hon'ble member is referred to the resolution No. 2262H.J., dated the 13th November, 1939, laid on the table in answer to question No. 8 of the current session of this House.

(*b*) 35 since July, 1939.

Mr. KAMINI KUMAR DUTTA: With reference to answer (*c*), will the Hon'ble Minister be pleased to state whether any case is still under the consideration of Government for showing clemency?

The Hon'ble Khwaja Sir NAZIMUDDIN: There is only one such case, viz., that of Ambica Chakravarty.

Bengal Civil Service Examination.

40. Mr. RANAJIT PAL CHOUDHURY: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) whether it is a fact that in September last an advertisement was published in the newspapers inviting applications for the Bengal Civil Service, Bengal Junior Civil Service and other superior grade Services under the Government of Bengal;

(*b*) if so, whether along with the advertisement and printed forms supplied, the number of vacancies for each Service was disclosed;

(c) if not, the reason or reasons for not stating the number of vacancies before the fee was deposited by the candidates;

(d) whether vacancies that are filled up by members of different communities for whom the posts are reserved are ever published for general information;

(e) if not, the reason or reasons for not supplying such information in time before the candidates deposit their prescribed fees and send in their applications; and

(f) when the statement showing the number of vacancies was first published?

The Hon'ble Khwaja Sir NAZIMUDDIN: (a) Yes.

(b) and (d) No.

(c) The number was still under examination.

(e) As the reservation of vacancies will be made in accordance with the published communique, dated the 12th June, 1939, no separate information on the point was required.

(f) 2nd October, 1939.

Forfeiture of the security deposit of newspapers.

41. Rai Sahib INDU BHUSAN SARKAR (on behalf of Raja Bhupendra Narayan Sinha Bahadur, of Nashipur): Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(a) the number of newspapers from whom fresh deposits have been asked since the 1st April, 1937, up to 31st October, 1939; and

(b) the number of newspapers whose deposits have been forfeited during the same period?

The Hon'ble Khwaja Sir NAZIMUDDIN: (a) Twenty-nine.

(b) One.

Purchase of Hastings House at Midnapore.

42. Rai Sahib INDU BHUSAN SARKAR (on behalf of Rai Bahadur Manmatha Nath Bose): (a) Will the Hon'ble Minister in charge of the Revenue Department be pleased to state if the Hastings House at Midnapore, which is now occupied by the Collector, has been purchased by Government for the Collector's residence? If so, at what cost?

(b) Was the attention of the Hon'ble Minister drawn to the Budget speech of the questioner (which is printed at page 269 of the Official Report, dated the 21st February, 1939), wherein serious objection was

raised, g g reasons, to spending a huge sum unnecessarily at a time when the Government felt the necessity for imposing fresh taxation? If not, will he kindly refer to the same and assign reasons for purchasing the house?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) No.

(*b*) Does not arise.

Grant of loans in the affected areas of the Midnapore district.

43. Rai Sahib INDU BHUSAN SARKAR (on behalf of Rai Bahadur Manmatha Nath Bose): (*a*) Will the Hon'ble Minister in charge of the Revenue Department be pleased to state if the District Magistrate of Midnapore asked for any money for granting loans in the affected areas in the district of Midnapore, during this year? If so, what was the amount and how much was sanctioned and paid?

(*b*) Will the Hon'ble Minister be pleased to state what were the amounts asked for by the District Magistrate, Midnapore, for granting gratuituous relief in each subdivision of the district of Midnapore and what were the amounts actually sanctioned and paid?

(*c*) Did the Hon'ble Minister receive any report from the said District Magistrate about the condition of the people and the cattle in the affected areas? If so, will he be pleased to lay it on the table and send a copy of the same to the questioner?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) Yes. The information is furnished below:—

		Rs.
Amount asked for	...	2,91,500
Amount sanctioned	...	2,91,500
Amount paid	...	2,78,000

(*b*) Name of subdivision.		Amount asked for.	Amount sanctioned.	Amount paid.
		Rs.	Rs.	Rs.
Ghatal	..	10,000	10,000	7,286
Sadar (North)	..			200
Sadar (South)	..			800
Tamluk	..			774
Jhargram	..			..
	Total ..			9,060

(*c*) Yes. Government receive regularly reports about the agricultural and economic situation in the district from the Collectors.

Reports of this nature are not public documents; they are confidential correspondence from Collectors and it is not the practice of Government to divulge their contents. It is not therefore possible to place them on the Library table.

Realisation of selami in the khas mahal lands.

44. Khan Bahadur ATAUR RAHMAN (on behalf of Khan Bahadur Saiyed Muazzamuddin Hosain): (*a*) Will the Hon'ble Minister in charge of the Revenue Department kindly state if *selami* for newly settled lands in the *khas mahal*, particularly in the Noakhali district, is realised in full at a time instead of by instalments? Is he aware that it is causing hardship to the poor people with whom such lands are settled?

(*b*) Are instalments allowed to even ex-settlement employees who are given land?

(*c*) Is the Hon'ble Minister aware that the settlement-holders have to pay *selami* after borrowing from money-lenders of exorbitant rates of interest owing to the enforcement of the payment of the whole of the *selami* at a time?

(*d*) Is it a fact that the former policy of Government was to realise *selami* in four or five instalments; if so, why was that policy discontinued and the new policy adopted?

The Hon'ble Khwaja Sir NAZIMUDDIN, (on behalf of the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) *Selâmi* is realised in full at the time of settlement under rule 88 of the Crown Estates Manual. This is reported not to be causing any hardship to the settlement-holders, as is also evident from the fact that there is always a competition for taking settlement.

(*b*) and (*c*) No.

(*d*) Formerly, instalments were allowed for payment of *selami* in view of the fact that the lands were being gradually developed. But at present no land is settled unless it is fit for immediate cultivation and as such, no instalments are given except in special circumstances as provided in rule 88 of the Crown Estate Manual.

Khan Bahadur ATAUR RAHMAN: Will the Hon'ble Minister be pleased to state if it is not a fact that this policy of Government will debar the poorer people from getting any land?

The Hon'ble Khwaja Sir NAZIMUDDIN: It is a matter of opinion and I doubt if this view is correct, as no facts are available on this point.

Rai Bahadur KESHAB CHANDRA BANERJEE: Will the Hon'ble Minister be pleased to state the reason for this differential treatment in regard to private landlords and Government so far as the question of *selami* is concerned?

The Hon'ble Khwaja Sir NAZIMUDDIN: That is a matter for the Legislature. The Legislature thought fit to do away with the rights of the zemindars.

Mr. RANAJIT PAL CHOUDHURY: Is the *selami* fixed by Government or is it realised by public auction?

The Hon'ble Khwaja Sir NAZIMUDDIN: I think that the *selami* is fixed by Government.

Mr. RANAJIT PAL CHOUDHURY: What is the rate per *bigha* or acre?

The Hon'ble Khwaja Sir NAZIMUDDIN: I ask for notice.

Rai Bahadur KESHAB CHANDRA BANERJEE: Will the Hon'ble Minister be pleased to state whether Government contemplate bringing forward a Bill to deal with this question?

The Hon'ble Khwaja Sir NAZIMUDDIN: I may draw the attention of the honourable members of this House to the fact that Government charge only *selami* as a rule on the occasion of the first settlement of land and not at every transfer.

Khan Bahadur ATAUR RAHMAN: May I request the Government to cause an enquiry to be made to find out whether the money-lenders and the richer people are getting the settlement and whether the really deserving poor people are debarred from getting any settlement?

The Hon'ble Khwaja Sir NAZIMUDDIN: I think, Sir, there is something in what the hon'ble member has said and Government will look into the matter.

Rai Bahadur KESHAB CHANDRA BANERJEE: Will the Hon'ble Minister be pleased to state whether Government realise the *selami* for the transfer of Government lands leased to tenants?

The Hon'ble Khwaja Sir NAZIMUDDIN: No.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state whether the right to receive *selami* is also given to those who take settlement of *Khas Mahal* lands from Government?

The Hon'ble Khwaja Sir NAZIMUDDIN: I don't think so.

Rai Bahadur KESHAB CHANDRA BANERJEE: Will the Hon'ble Minister be pleased to say whether any representation has been received by Government from the *Khas Mahal* tenants to remit the *selami* in cases where necessary?

The Hon'ble Khwaja Sir NAZIMUDDIN: Not that I am aware of.

State-aid to Industries.

45. Mr. LALIT CHANDRA DAS: (*a*) Will the Hon'ble Minister in charge of the Industries Department be pleased to state how many existing industries are encouraged and developed by State-aid and how many new ones have been established by the present Government since its assumption of office and what are they? And what has been the total expenditure of the Government on those accounts so far?

(*b*) Will the Hon'ble Minister be pleased to state whether due to war, there is likely to be paucity of cloths, coal-tar, chemicals, paper, film materials, dyestuffs, etc., and consequent rise in these prices? How does Government intend to meet those difficulties?

(*c*) Is the Government aware that for the encouragement and development of industries, the Government of Japan started several mills for cloth, jute and other industries and later invited share-holders to take them up and subsequently released all of them from the State to the share-holders?

(*d*) Does the Government propose to avail itself of the opportunities afforded by the war and take the initiative in the matter of industrial development during the present crisis and frame a scheme for important industries in the immediate future?

(*e*) Does the Government propose to appoint without delay a committee consisting of the representatives of the Government, the important industries and the scientific departments of the Universities of Calcutta and Dacca together with some members of both the Houses of the Legislature to draw up a scheme for the purposes mentioned in paragraph (*d*)?

MINISTER in charge of the INDUSTRIES DEPARTMENT (the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca): (*a*) A statement is placed on the Library table.

(*b*) The war is likely to restrict imports of these articles. The Industries Department will render all possible encouragement and assistance for the establishment and development of industries for the production of such articles in the Province so as to counteract the effect of their restricted import from foreign countries.

(*c*) I have no definite information in the matter.

(*d*) to (*e*) The attention of the member is drawn to the answer given to clauses (*b*) to (*h*) to the question No. 9 by Mr. Kamini Kumar Dutta answered on the 24th November, 1939.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to explain why the statement is laid on the Library table and not here, so that the members of this House may know what it is about?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: Sir, the general practice has been to place it on the Library table.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to say whether the Government will be pleased to change that rule and to place it here so that the members of this House may know?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: If the Hon'ble President so desires and if the House also so desires, Government will consider this matter.

Embankment of the river Mayurakshi.

46. Mr. RANAJIT PAL CHOUDHURY: (*a*) Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state whether it is a fact that the embankment of the river Mayurakshi is a "protected" embankment in the district of Murshidabad?

(*b*) Is it a fact that the Government grants annually decent sums to the landlords concerned to repair the embankment?

(*c*) If the answer to the above be in the affirmative, will the Government be pleased to state the names of those *zemindars* and the amount of "Pull-bandi" allowance granted to each?

(*d*) Is it a fact that the lands and roads of many villages in Burwan, Bharatpur and Kandi police-stations are annually damaged on account of breaches in the embankment of the said river?

(e) What is the nature of control exercised by the Government to see that the *zemindars* repair the embankment properly?

(f) Has any check or control ever been exercised?

(g) If so, how many times has it been exercised?

(h) Is it a fact that the Government is thinking of abandoning its old policy and of not pressing on the *zemindars* to repair the embankment any more?

(i) Is the Government aware that many villages in the three thanas of Burwan, Bharatpur and Kandi will be entirely depopulated and the arable lands will be filled up with sand if this policy is pursued?

(j) Does the Government propose to issue a communique on the matter to allay the feelings of alarm caused by the report of the abandonment of its old embankment policy?

MINISTER in charge of the COMMUNICATIONS and WORKS DEPARTMENT (the Hon'ble Maharaja Srishchandra Nandy, of Cossimbazar): With your permission, Sir, I propose to reply to questions Nos. 46 and 47 together.

I am making enquiries and will give the information desired in due course.

Rai Bahadur SURENDRA NARAYAN SINHA: Will the Hon'ble Minister kindly state when the result of the enquiry will be available and when the enquiry will be finished?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: The enquiry was started on receipt of this question by the department. It is very difficult to give any idea of time, but we are trying our best to give the reply as soon as the enquiry is completed.

Flood in the subdivisions of Ghatal, Midnapore Sadar and Tamluk.

47. Rai Sahib INDU BHUSAN SARKAR (on behalf of Rai Bahadur Manmatha Nath Bose): (a) Will the Hon'ble Minister in charge of the Comunications and Works Department be pleased to state if he is aware of the fact that huge tracts of land in the subdivisions of Ghatal, Midnapore Sadar and Tamluk have been flooded this year damaging the entire paddy crops of these areas?

(b) What is the area of the damaged tracts in each subdivision?

(c) Will the Hon'ble Minister be pleased to state the reasons why several areas in Sadar, Tamluk, Contai and Ghatal subdivisions in the district of Midnapore, especially the areas in the Ghatal subdivision, are flooded almost every year resulting in loss of crop, cattle and human life?

(*d*) Has the Hon'ble Minister examined how these damages can be prevented?

(*e*) Is the Hon'ble Minister aware that several embankments in the Ghatal subdivision are being abandoned every year?

(*f*) Is the Hon'ble Minister aware that, long after abandoning the embankment, the Public Works Department asked the Embankment Committee at Midnapore to sanction the abandonment which had already been effected? Did the Embankment Committee through the District Magistrate make any representation to the Government? If so, will the Hon'ble Minister kindly lay a copy of the same on the table? What steps has he taken on the same?

(*g*) Will the Hon'ble Minister be pleased to state if any Comprehensive Schemes have been prepared by the Special Officer? If so, what steps does he intend to take for bridging the river Silai which bifurcates the Ghatal town?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: *Vide* reply to question No. 46.

Excise licensees in the districts of Hooghly, Howrah and others.

48. Khan Bahadur NAZIRUDDIN AHMAD: Will the Hon'ble Minister in charge of the Forests and Excise Department be pleased to place on the table a statement showing separately for each of the districts of Hooghly, Howrah, Burdwan, Birbhum, Bankura and Midnapore—

(*a*) the total number of existing licences of the following descriptions:—

(*i*) *Pachwai*,

(*ii*) Country spirit,

(*iii*) *Ganja*,

(*iv*) Opium,

(*v*) *Bhang*,

(*vi*) *Charas*, and

(*vii*) Foreign liquor;

(*b*) the number of Caste Hindus, Muhammadans, Scheduled Castes and other communities, separately, among such licensees;

(*c*) the percentage of Caste Hindus, Muhammadans, Scheduled Castes and other communities among each of the above classes of licensees;

(*d*) the nature (*pachwai*, country spirit, etc.), and number of the licences held by each of the above communities that terminated during the period from the 1st April, 1937, up to date;

(*e*) the number of Caste Hindus, Muhammadans, Scheduled Castes and others classified as above who were appointed as licensees in the vacancies so caused; and

(*f*) the percentage of each of the communities mentioned above, in the number appointed in the vacancies in the various nature of licences during the same period?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK (on behalf of the Hon'ble Mr. Prasanna Deb Raikut): No information of the castes of vendors of Excise shops is kept in Excise offices.

Khan Bahadur NAZIRUDDIN AHMAD: I am very sorry that the Hon'ble Minister in charge of the department is absent. In view of the laconic answers, I think it will be very difficult for the acting Minister to reply to supplementary questions.

Mr. PRESIDENT: You need not assume that the Hon'ble Minister will not be able to reply.

Khan Bahadur NAZIRUDDIN AHMAD: Then I shall put a few supplementary questions.

Is there any book to show the number of licensees actually in existence in the district?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: The number of licensees is kept in a register in the district office.

Khan Bahadur NAZIRUDDIN AHMAD: Are not the names of licensees given in such registers?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: The names are shown in the registers.

Khan Bahadur NAZIRUDDIN AHMAD: Then, is it very difficult to find out the religion or the nationality of those licensees?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: What was wanted is the caste. The caste is never mentioned in the register.

Khan Bahadur NAZIRUDDIN AHMAD: Is it difficult for the office to know the different [illegible]ies to which they belong?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: In that way, it may be possible to give an approximate answer. But we will not be able to give correct information.

Khan Bahadur NAZIRUDDIN AHMAD: Is it difficult to distinguish Hindus and Muhammadans from the names?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: It may be possible to distinguish Hindus from Muhammadans, but will not be so easy to find out to which caste the Hindus may belong?

Khan Bahadur NAZIRUDDIN AHMAD: Is it a fact that definite books are maintained in the district to show the number of Hindus, Muhammadans, Scheduled Castes and others, their numbers and names, separately?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: No.

Medical aid in rural areas.

49. Mr. NUR AHMED: (*a*) Will the Hon'ble Minister in charge of the Public Health and Medical Department be pleased to state what steps he has up to this time taken to provide cheap medical aid in rural areas?

(*b*) Does he intend to introduce a system of giving suitable subsidies to efficient and well-qualified *vaidyas*, *hakims*, Allopaths and Homeopaths who are prepared to settle in villages?

(*c*) If not, what other alternative schemes does he propose to introduce for the purpose? If not, why not?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK (on behlf of the Hon'ble Mr. Tamizuddin Khan): (*a*) According to the existing scheme, subsidies and annual grants are paid by Government to all village and thana dispensaries which are reported to be eligible, having complied with the prescribed conditions. I can assure the hon'ble member that all eligible dispensaries will continue to receive the grant. A large share of the Government of India's First Rural Uplift Grant was also allotted for the purpose of encouraging by suitable capital grant the establishment of union board dispensaries throughout the Province. A fairly large number of dispensaries have been established as a result during 1936-38.

(*b*) No.

(*c*) (*i*) A scheme of capital grants towards establishment of union board dispensaries on the lines of the Central Government grant is now receiving the consideration of Government.

(ii) A proposal made by the Director of Public Health for the reorganisation of the rural public health service, under which it is proposed to establish one treatment centre for every unit consisting of two union boards throughout the Province has been under the consideration of Government for some time and a decision is expected to be reached shortly.

Rai Bahadur KESHAB CHANDRA BANERJEE: Will these treatment centres be under the control of the District Board?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: All that I can say is that it is under the consideration of Government yet and as indicated in the answer, it will depend upon the decision that will be reached in the end.

Motion for adjournment for purpose of Debate.

Mr. PRESIDENT: Order, order. I have received notice of an adjournment motion from Mr. Srish Chandra Chakraverti which runs thus:—

"That this House do now adjourn to discuss a matter of urgent public importance, namely, unnecessary and abnormal rise in prices of commodities of daily necessity but no action taken by the Government in this matter and the possibility of breach of peace at any moment as a result of this."

The Hon'ble Mr. H. S. SUHRAWARDY: I should submit Sir, this motion should be disallowed by you on a technical ground. I have no objection really to its discussion, Sir, but instead of moving an adjournment motion of this kind if the hon'ble member had tabled a short-notice question in order to find out what we were doing in the matter, he would have had all the facts laid on the table. I think, Sir, that this the unkindest cut of all that have ever been administered on the floor of this House, because if there is any one Government in the whole of India which has done something definite in this direction, it is this Government. And the extent to which the measures taken by us have been applied hitherto has resulted in a rebuke being administered to us by the Hon'ble Commerce Member of the Government of India, which I take to be a compliment to this Government. However, Sir, as the matter now stands, the motion states that "this House do now adjourn to discuss a matter of urgent public importance, namely, unnecessary and abnormal rise in prices of commodities, etc., etc." It does not state when this unnecessary and abnormal rise took place. If it had taken place some time ago, then it should have been brought up as soon as it had taken place.

Mr. PRESIDENT: Mr. Chakraverti, what is your allegation? Did the rise take place all of a sudden in the nature of an emergency?

Mr. SRISH CHANDRA CHAKRAVERTI: Shall I move my motion, Sir?

Mr. PRESIDENT: No. You have not answered my

Mr. SRISH CHANDRA CHAKRAVERTI: As soon as the war was declared——

Mr. PRESIDENT: Order, order. The motion can be considered to be in order only if your allegation is that this rise in prices has occurred during last two or three days when the House was not sitting. You are to approach the House on the first available opportunity when an emergency happens. The statement that the rise in prices took place as soon as the war was declared, will not bring it technically under the rules.

Mr. SRISH CHANDRA CHAKRAVERTI: The price has been daily increasing, Sir. Day to day the prices are increasing. I may say that the prices increased yesterday and the day before yesterday. Really speaking, everyday the prices are increasing.

Mr. PRESIDENT: If you mean that you have received a complaint that the rise in prices has taken place during the last few weeks, I hold this motion to be out of order. Under the rules, the motion must refer to a definite matter of recent occurrence.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, now that you have ruled the motion out of order, may I be allowed to make a statement?

Mr. PRESIDENT: I am sorry, there is no motion before the House now on which the Hon'ble Minister can speak.

The Bengal Money-lenders Bill, 1939.

Mr. HUMAYUN KABIR: Sir, may I ask you about the amendments to the Bengal Money-lenders Bill which is to be taken up by this House to-morrow? We have not received them up till this morning. We must have a little time to consider what amendments have been tabled and what amendments should be supported. But as yet we have not received any list of the amendments.

Mr. PRESIDENT: I understand that the office received about 800 amendments and that the unconsolidated list has already been circulated to the members.

Mr. HUMAYUN KABIR: When were they circulated?

Mr. PRESIDENT: I understand that the office will get the amendments from the Press this afternoon and they will be circulated immediately after they are received.

Mr. NARESH NATH MOOKERJEE: May I submit, Sir, that under these circumstances it will be extremely difficult to consider the Bill to-morrow, because we certainly want some time to consider the amendments. I expect there will be very important amendments tabled. I submit, Sir, that you may consider the question of taking up the Bill on Monday.

The Hon'ble Mr. H. S. SUHRAWARDY: If the Opposition so desire and if hon'ble members of this House would like to have time to consider the various amendments, we would have no objection to the Bill being taken up on Monday, if you approve.

Mr. PRESIDENT: All right.

Report of the Committee on Public Accounts, etc.

The Hon'ble Mr. NALINI RANJAN SARKER: Sir, under rule 109 of the Bengal Legislative Council Procedure Rules, I beg to present to the Council the Report of the Committee on Public Accounts on the Appropriation of Accounts and Finance Accounts of the Government of Bengal for the year 1937-38 and the Audit Reports of the year 1938. I also beg to present to the Council the demand in respect of excesses over grants for 1937-38.

The Bengal Shops and Establishments Bill, 1939.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I beg to introduce the Bengal Shops and Establishments Bill, 1939.

(After a pause.)

Sir, I also gave notice of my intention to move at the current session of the Bengal Legislative Council that the Bengal Shops and Establishments Bill, 1939, be referred to a Select Committee consisting of—

(1) Khan Bahadur Ataur Rahman,

(2) Khan Sahib Subidali Molla,

(3) Mr. Mohamed Hossain,

(4) Mr. Krishna Chandra Roy Chowdhury

(5) Maulana Muhammad Akram Khan,

(6) Mr. Naresh Nath Mookerjee,
(7) Mr. Kamini Kumar Dutta,
(8) Mr. Humayun Kabir,
(9) Mr. W. B. G. Laidlaw,
(10) Raja Bahadur Bhupendra Narayan Sinha, of Nashipur, and
(11) myself,

with instructions to submit their report by the 28th February, 1940, and that the number of members whose presence shall be necessary to constitute a quorum shall be 5.

Sir, I would also request you to be good enough to waive the rule regarding the period of notice and to take it up at any time that may be suitable to yourself. Perhaps, as the motion for reference to a Select Committee is not likely to prove contentious and as we are giving ample time, viz., 28th February, 1940, for consideration of the Bill by the Select Committee, you may be pleased to take up the matter to-morrow or on Monday or any day that will suit you.

Mr. PRESIDENT: The only motion that will be relevant to this motion will be one for circulation. So, I think, that if this motion is moved on Monday next, honourable members, if they so like, may give notices of amendments for circulation in the meantime. I think there is no objection to this motion being moved on Monday.

(Cries of "no objection.")

The Inland Steam Vessels (Bengal Amendment) Bill, 1939.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I beg to move that the Inland Steam Vessels (Bengal Amendment) Bill, 1939, be taken into consideration.

Sir, the Bill was introduced by me on the first day of the session on the floor of the House.

Mr. PRESIDENT: The difficulty about your motion is that according to our rules, if you are to move for taking the Bill into consideration, there must be a notice for 21 days. Rule 52(2) says: "Save as provided in rules 61 and 77, the period of notice of a motion to take a Bill into consideration shall be twenty-one days....." and I do not think 21 days have passed. (Laughter.)

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, will you be good enough to relax the rule?

Mr. PRESIDENT: I received notice of only one amendment to-day namely, that the Bill be circulated for the purpose of eliciting opinion

thereon by the 1st February, 1940. That notice could not be circulated to the honourable members. I would suggest that this matter also may be taken up on Monday.

The Hon'ble Mr. H. S. SUHRAWARDY: All right, Sir.

Rai KESHAB CHANDRA BANERJEE Bahadur: Sir, in the meantime, copies of the Bill may be supplied to honourable members.

Mr. PRESIDENT: Copies have already been supplied to honourable members.

The Hon'ble Mr. H. S. SUHRAWARDY: On the first day, Sir.

Mr. PRESIDENT: And it has also been published in the Gazette.

The Bengal Workmen's Protection (Amendment) Bill, 1939.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I beg to move that the Bengal Workmen's Protection (Amendment) Bill, 1939, be taken into consideration. I gave notice of it on the floor of the House.

Mr. PRESIDENT: Is there any amendment?

Mr. NARESH NATH MOOKERJEE: Sir, in regard to this Bill, I wish you not to waive the rule as it is a very important measure and I do not think that the Hon'ble Minister wishes to rush this Bill through the House. We may be in sympathy with the Bill but we want some time to consider it and put in our amendments. With regard to the previous Bill, we had no objection but this one is very important.

Mr. PRESIDENT: The office has received notices of amendment from Rai Bahadur Surendra Narayan Sinha and Mr. Nur Ahmed which are also to be circulated. What time will suit you for taking them up?

Mr. NARESH NATH MOOKERJEE: Any day next week.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, we have already fixed Monday for taking up the Bengal Money-lenders Bill.

Mr. PRESIDENT: But these Bills will not take up much time.

The Hon'ble Mr. H. S. SUHRAWARDY: All right, Sir; these might be taken up on Monday.

Adjournment.

The Council then adjourned till 2-14 p.m. on Friday, the 8th December, 1939.

Members absent.

The following members were absent from the meeting held on the 6th of December, 1939:—

(1) Rai Bahadur Manmatha Nath Bose.
(2) Mr. Hamidul Huq Chowdhury.
(3) Mr. Humayun Reza Chowdhury.
(4) Mr. Bankim Chandra Datta.
(5) Mr. Narendra Chandra Datta.
(6) Mrs. K. D'Rozario.
(7) Khan Bahadur S. Fazl Ellahi.
(8) Khan Bahadur Alhaj Khwaja Muhammad Esmail.
(9) Khan Bahadur Saiyed Muazzamuddin Hosain.
(10) Mr. Mohamed Hossain.
(11) Dr. Radha Kumud Mookerji.
(12) Mr. E. C. Ormond.
(13) Khan Bahadur Muklesur Rahaman.
(14) Mr. J. B. Ross.
(15) Rai Bahadur Jatindra Mohon Sen.
(16) Raja Bhupendra Narayan Sinha Bahadur, of Nashipur.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Friday, the 8th December, 1939, at 2-15 p.m., being the seventh day of the Third Session, pursuant to section 62 (2) (a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Commerce classes in the Islamia College.

50. Mr. NUR AHMED: (a) Will the Hon'ble Minister in charge of the Education Department be pleased to state if it is intended to open evening classes in I. Com. and B. Com. in the Islamia College? If not, why not?

(b) Is it a fact that similar evening classes have been opened in Vidyasagar College, Calcutta, and also in some other colleges and that they have proved a great success?

(c) Is it a fact that there was a proposal of starting such evening classes in the Islamia College? If so, does the Government intend to give effect to the said proposal at an early date? If not, why not?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Hon'ble Mr. A. K. Fazlul Huq): (a) and (c) Some time ago, it was proposed to start evening B. Com. classes in the Islamia College. The proposal was not, however, proceeded with in view of the proposed development of the Government Commercial Institute into a Commerce College as well as the recent decision of Government to transfer the Islamia College to a better site outside the city.

(b) Yes.

Frequent changes of text books in High schools.

51. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: (a) Will the Hon'ble Minister in charge of the Education Department kindly state whether he is aware that text books in High schools are frequently changed in Government-aided schools and is he also aware that such changes cause hardship to the poor students?

(b) Are not such changes often made with the object of patronising new authors?

(*c*) Do Government propose to introduce the system of prescribing common text books for both the Government and the Government-aided schools and do they propose to continue such books when once prescribed for at least five years to prevent monetary loss to guardians of the poor students?

(*d*) Does the Hon'ble Minister propose to prescribe such text books as are of minimum price from amongst the books approved by the Text Book Committee?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Hon'ble Mr. A. K. Fazlul Huq: (*a*) Text books for classes III—VIII of Government and Government-aided secondary schools approved by the Director of Public Instruction remain on the approved list for five years and no change is made in the list during that period. The actual selection of the books for individual classes for any year is made by the Head Masters for Government high schools and in the case of Government-aided high schools by the Head Masters with the approval of the Managing Committees.

(*b*) I have no such information.

(*c*) I am of opinion that a system of prescribing common text books for Government and Government-aided high schools would encourage monopoly. The Director of Public Instruction has, however, issued instructions to Government and Government-aided high schools that changes of text books for individual classes must not be made during the period of approval without the sanction of the controlling officer concerned.

(*d*) Prices of text books are charged according to rates prescribed by the Director of Public Instruction. Head Masters are not debarred from selecting such text books for their schools from the approved list as are of minimum price.

Orders under the Defence of India Rules.

52. Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) whether the Government notification No. 4783P., dated the 5th September, 1939, published in an *Extraordinary Issue of the Calcutta Gazette*, dated the 6th September last, was issued on the basis of rule 56(*1*) of the Defence of India Rules framed under the authority given by the Defence of India Ordinance (Ordinance V of 1939);

(*b*) whether the said Ordinance V of 1939 has expired; if so, whether the Rules made thereunder have become *ipso facto* null and void;

(c) whether the afore-mentioned Government notification embodying prohibitory orders for a period of six months commencing from the 6th September last with regard to public meetings, assemblies or processions has not become null and void with the expiry of the life of the said Ordinance; and

(d) whether the Government proposes to withdraw the said notification; if not, why not?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): (a) Yes.

(b) and (c) No.

(d) Government do not propose to withdraw the notification in view of the present emergency.

Mr. LALIT CHANDRA DAS: If it is not withdrawn, will the Hon'ble Minister be pleased to explain how in the impending election for the members of this Council, election campaign can be carried on?

The Hon'ble Khwaja Sir NAZIMUDDIN: I do not think that this will in any way obstruct the election campaign of the members of the Legislative Council.

Mr. LALIT CHANDRA DAS: Is the Hon'ble Home Minister aware that three days' notice is necessary for the purpose of convening a meeting? If so, is it not a fact that it will inconvenience members going from place to place and holding meetings?

The Hon'ble Khwaja Sir NAZIMUDDIN: As a matter of fact, it will be helping members, because adequate notice will be given and it will ensure good audience.

Mr. LALIT CHANDRA DAS: How can meetings be held at different places in the mofussil if three days' notice is required? Are the members to go to the District Magistrate, give 3 days' notice and get their permission?

The Hon'ble Khwaja Sir NAZIMUDDIN: If the hon'ble members arrange their programme of meetings, announce it in advance and take permission from District Magistrates three days before, they can go on from place to place and hold meetings.

Mr. LALIT CHANDRA DAS: Will it be wrong to suggest that this notification was issued for the purpose of stifling agitation for the release of political prisoners?

The Hon'ble Khwaja Sir NAZIMUDDIN: I am afraid, the hon'ble member is very much mistaken on this point.

Prosecutions against persons connected with newspapers.

53. Mr. LALIT CHANDRA DAS: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state how many prosecutions were started by Government on charges of sedition against persons connected with newspapers or editors, printers or publishers and how many prosecutions against others since the new Constitution came into existence?

(*b*) What are the names of the papers against which prosecutions were launched?

(*c*) In the prosecutions referred to in paragraph (*a*), how many were convicted and how many were acquitted?

(*d*) From how many Presses security money were demanded? What were the amounts of money demanded as security from those Presses?

(*e*) In how many cases was money forfeited? What are the names of those Papers? Was the forfeited money returned in any case? If so, in what case?

(*f*) Does the Government propose to allow more latitude to the Press and public men by discouraging wherever possible such prosecutions and forfeitures?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) Nine against persons connected with the press. As regards others, the compilation of the information asked for would involve an expense of time and labour incommensurate with the result.

(*b*) Persons were prosecuted who are concerned with the *Advance*, the *Desh Darpan*, the *Hindusthan Standard*, the *Ananda Bazar Patrika* and the *Dainik Basumati*.

(*c*) Prosecution was withdrawn by Government in two cases. The accused were acquitted by the trying court in two cases. There was a conviction in five cases in the lower court, in four of which the conviction was set aside by the High Court on appeal.

(*d*) Seven; Rs. 9,500.

(*e*) Deposit of two newspapers was ordered for forfeiture. *Dainik Basumati* and *Ananda Bazar Patrika*. Yes. *Dainik Basumati*.

(*f*) Government exercise the utmost discretion in sanctioning prosecution.

Release of Sj. Sukhendu Dastidar.

54. Mr. LALIT CHANDRA DAS: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state when Sukhendu Dastidar of the Chittagong Armoury Raid Case was convicted and how long he is now in jail?

(*b*) What was the age of the said Sukhendu at the time of his conviction?

(*c*) Did the Court recommend clemency to be shown to the said Sukhendu along with Fakir Sen, Subodh Roy and Ranadhir Das Gupta who were similarly convicted in consideration of their tender age?

(*d*) Is it a fact that his fellow-convicts, the afore-mentioned Fakir Sen, Subodh Roy and Ranadhir Das Gupta, have been released by the Government—following the recommendation of the trying Court?

(*e*) Is it a fact that the conduct of the said Sukhendu Dastidar in jail is reported to be good?

(*f*) Does Government propose to release the said Sukhendu Dastidar? If not, how does his case differ from that of Fakir Sen, Ranadhir Das Gupta and Subodh Roy?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) He was convicted on 1st March, 1932, and has been in jail for more than 7½ years.

(*b*) 18 years.

(*c*) and (*e*) Yes.

(*d*) Yes, but on the representation of their parents who undertook to be responsible for them.

(*f*) No. In this case, Government did not consider that there was any ground for diverging from the recommendation of the Advisory Committee before whom the records of the three other prisoners released were also placed when considering this prisoner's case.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Home Minister be pleased to state what was the age of Sukhendu Dastidar at the time of his arrest? Was he not 14 years only?

The Hon'ble Khwaja Sir NAZIMUDDIN: I think he was 16.

Mr. LALIT CHANDRA DAS: What was his age at the time of arrest, please?

The Hon'ble Khwaja Sir NAZIMUDDIN: The hon'ble member can get at the result himself.

Mr. LALIT CHANDRA DAS: Is it not a fact that his associates, Fakir Sen, Subodh Roy and Ranadhir Das Gupta, were released by Government before the Advisory Committee came into being, following the recommendations of the court for clemency?

The Hon'ble Khwaja Sir NAZIMUDDIN: The hon'ble member is correct.

Mr. LALIT CHANDRA DAS: Will the Government be pleased to state the grounds on which the Advisory Committee could not follow the recommendations of the court for showing clemency also to Sukhendu Dastidar?

The Hon'ble Khwaja Sir NAZIMUDDIN: I was not a member of the Advisory Committee, and so I regret, I could not give these grounds.

Mr. LALIT CHANDRA DAS: Is it not a fact that the grounds were stated by the Advisory Committee for refusing to show clemency to Sukhendu Dastidar?

The Hon'ble Khwaja Sir NAZIMUDDIN: I don't think so.

Mr. LALIT CHANRA DAS: Is it not a piece of good luck for Ranadhir Das Gupta, Fakir Sen and Subodh Roy that they were released by Government before the Advisory Committee came into being?

The Hon'ble Khwaja Sir NAZIMUDDIN: I don't think so.

Mr. LALIT CHANDRA DAS: May I take it that Sukhendu Dastidar would have been released by Government had there been no Advisory Committee, following the recommendations of the court for showing mercy along with Fakir Sen, Subodh Roy and Ranadhir Das Gupta?.

The Hon'ble Khwaja Sir NAZIMUDDIN: I may draw the attention of the hon'ble member to the fact that all these three had served a considerable period of their sentence before they were released,

and at the time of the release of these three people the case of this prisoner, namely, Sukhendu Dastidar was also considered; but Government found no justification in this case to exercise clemency.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state whether the terms of sentences of all these three prisoners were the same?

The Hon'ble Khwaja Sir NAZIMUDDIN: I believe so.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state with reference to answer (*d*), whether in the case of Sukhendu Dastidar also, his father made a representation to the Government for his release undertaking that he would remain responsible for his son Sukhendu Dastidar in the same way as the parents of Fakir Sen, Subodh Roy and Ranadhir Das Gupta did?

The Hon'ble Khwaja Sir NAZIMUDDIN: I ask for notice.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state that if he really finds that his father also applied in the same way as the parents of Fakir Sen, Subodh Roy and Ranadhir Das Gupta stating that he would remain responsible for the conduct of his son Sukhendu Dastidar, his case for release would be considered?

The Hon'ble Khwaja Sir NAZIMUDDIN: This is not possible, because the circumstances of this case are to a certain extent different from the others. In this case, the record of the members of the family of this prisoner is very bad. As late as 1937 two other members of the family were reported to be active members of the Yugantar Party and two of his cousins are still reported to be members of the same party.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state, if not on the recommendation of the surety of the father, on whose surety would the Government be pleased to consider the release of Sukhendu Dastidar?

The Hon'ble Khwaja Sir NAZIMUDDIN: On no one's surety, Sir.

Clerical staff of the Burdwan Collectorate.

55. Khan Bahadur ATAUR RAHMAN: Will the Hon'ble Minister in charge of the Revenue Department be pleased to state—

(*a*) the number of higher grade posts, including the posts of the Office Superintendent, Head Assistant, Accountant and Treasury Stamp Clerk, in the Burdwan Collectorate;

(*b*) the number of such posts held by Muslims, Scheduled Castes, Caste Hindus and others;

(*c*) the number of Muslims who occupied such posts within the last ten years;

(*d*) whether there is any Muslim holding such a post at present;

(*e*) when the last Muslim, who occupied such a post, left the service;

(*f*) how many of such posts have been filled up since the retirement of the last Muslim and the names of men who were promoted to such posts;

(*g*) the number of Muslims, Scheduled Castes, Caste Hindus and others among such promoted clerks;

(*h*) the position of the promoted clerks in the gradation list at the time of such promotion;

(*i*) whether there were any Muslim clerks who were senior to these promoted clerks; and

(*j*) whether the Government proposes to make an independent inquiry to ascertain the justification of the supersession of the senior clerks, if any?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) Seventeen.

(*b*) All held by Caste Hindus.

(*c*) One.

(*d*) No.

(*e*) December, 1929.

(*f*) There were altogether 19 occasions to fill up the vacancies in these posts. A statement furnishing the names is placed on the table.

(*g*) All are Caste Hindus.

(*h*) The information is furnished in the statement referred to in the answer to clause (*f*).

(*i*) Yes, in the Lower Division only.

(*j*) Government do not consider it necessary to make an independent enquiry in the matter.

Statement referred to in the reply to clauses (f) and (h) of question No. 55.

Serial No.	No. in the gradation list at the time of appointment.	Names of promoted clerks.	Year in which promotion was made.	Posts to which promoted.
1	2	3	4	5
1	9 (Lower Division)	Babu Jyotirmoy Ghosh	1930	Ordinary Upper Division.
2	47 (Ditto) ..	Babu Bijaychand Batabyal.	1931	Ditto.
3	40 (Ditto) ..	Babu Kamalapada Dutta	1931	Ditto.
4	26 (Ditto) ..	Babu Narayanchandra Bhattacharji.	1932	Ditto.
5	11 (Ditto) ..	Babu Upendranath Chatterji.	1933	Ditto.
6	40 (Ditto) ..	Babu Santoshkumar Das	1933	Ditto.
7	13 (Ditto) ..	Babu Gopalchandra Mukherji.	1934	Ditto.
8	3 (Ditto) ..	Babu Udaysasi Hazra .	1936	Ditto.
9	2 (Ditto) ..	Babu Bhutnath Roy ..	1936	Ditto.
10	5 (Ditto) ..	Babu Rampada Ghosh .	1938	Ditto.
11	107 (Ditto) ..	Babu Susilranjan Panja	1939	Stamp Clerk.
12	22 (Ditto) ..	Babu Kantichandra Addya.	1939	Ordinary Upper Division.
I	8 (Upper Division)	Babu Jamunikanta Dutta.	1930	Selection Grade Accountant.
II	4 (Ditto) ..	Ditto ..	1933	Head Assistant.
III	9 (Ditto) ..	Babu Panchkari Chatterji.	1933	Accountant.
IV	2 (Ditto) ..	Babu Jaminikanta Dutta	1937	Office Superintendent.
V	5 (Ditto) ..	Babu Atulchandra Ghosh	1937	Head Assistant
VI	7 (Ditto) ..	Babu Ramprasanna Mukherji.	1938	Accountant.
VII	5 (Ditto) ..	Babu Pravatranjan Dutt	1939	Head Assistant.

Khan Bahadur NAZIRUDDIN AHMAD: With reference to answer (i), will the Hon'ble Minister be pleased to state the significance of the words "in the Lower Division only"?

The Hon'ble Khwaja Sir NAZIMUDDIN: It only means that some senior Mussalmans were also in the Lower Division.

Khan Bahadur NAZIRUDDIN AHMAD: Has the Hon'ble Minister noticed in the statement attached to the reply that in many cases men considerably down in the Lower Division have been accepted for promotion?

The Hon'ble Khwaja Sir NAZIMUDDIN: I believe the hon'ble member is correct.

Khan Bahadur NAZIRUDDIN AHMAD: Is the Hon'ble Minister aware that according to the statement given there have been considerable occasions on which supersessions of senior candidates have taken place?

The Hon'ble Khwaja Sir NAZIMUDDIN: If I may just explain the previous answer, there are people in the Upper Division who have been promoted as Head Assistants, Superintendents and Accountants. That was the significance of the word "only". There are senior men in the Lower Division only.

Khan Bahadur NAZIRUDDIN AHMAD: Is it a fact that on many occasions seniority was disregarded in the matter of promotion?

The Hon'ble Khwaja Sir NAZIMUDDIN: From the list given, the assumption is correct.

Khan Bahadur NAZIRUDDIN AHMAD: Are not some of these cases very glaring?

The Hon'ble Khwaja Sir NAZIMUDDIN: I should not think so, because they must have been considered by the head of the department before promotions were made.

Khan Bahadur NAZIRUDDIN AHMAD: Apart from the considerations of so-called merit, were not the supersessions glaring from the position held by these clerks in the gradation list?

The Hon'ble Khwaja Sir NAZIMUDDIN: It is very difficult to generalise in a matter like this.

Khan Bahadur NAZIRUDDIN AHMAD: May I point out one instance to the Hon'ble Minister? A man holding the rank of 107 in the gradation list has been promoted. Obviously, it is very strange that a man so low in the gradation list should have been promoted superseding the claims of others.

The Hon'ble Khwaja Sir NAZIMUDDIN: The post is that of a stamp clerk, and for this post I think people are required to furnish security. It may be just possible that no one was available to give the security.

Khan Bahadur NAZIRUDDIN AHMAD: Is the Hon'ble Minister aware that there were other candidates who were prepared to furnish the security and their claims were disregarded although they were seniors?

The Hon'ble Khwaja Sir NAZIMUDDIN: If the hon'ble member will furnish detailed information, Government will look into such cases.

Khan Bahadur NAZIRUDDIN AHMAD: With regard to answer (*j*) is not the refusal of Government to consider the cases and make an independent enquiry too curt a reply to the request?

The Hon'ble Khwaja Sir NAZIMUDDIN: Unless and until some tangible facts are placed before the Government to show that injustice has been done, it is very difficult to accept the suggestion for an enquiry. As has been stated more than once, promotions are made on grounds of both seniority and merit; and by merely looking at the list if honourable members say that people considerably down in the gradation list have been promoted, it does not bear the assumption that an injustice has been done in making the promotions. But if facts and figures are given which would fairly make out a case that injustice has been done, then I am sure Government will look into those cases.

Khan Bahadur NAZIRUDDIN AHMAD: Will the Hon'ble Minister be pleased to state if Government is prepared to institute an enquiry to ascertain the facts?

The Hon'ble Khwaja Sir NAZIMUDDIN: I do not think that will be right without a case having been made out that there is necessity for it. Government must assume that their responsible officers like District Magistrates and heads of departments act fairly and justly. If on every complaint that is made an enquiry is held, then heads of departments and District Magistrates will lose all confidence. Therefore, fairly good case must first be made out before Government could institute an enquiry.

Khan Bahadur ATAUR RAHMAN: Will the Hon'ble Minister be pleased to state if the facts as revealed in the answer itself do not show

sufficient ground for a Government enquiry? No 47 is promoted fr the third list and then again after two years he is promoted to t second place. Then comes No. 107 as referred to. Does it not reve facts which warrant an enquiry independently by Government?

The Hon'ble Khwaja Sir NAZIMUDDIN: I do not think so. As have stated, unless it is shown that in the case of a particular prom tion, clerks so and so have been superseded and it is shown that they h good records and had received good chits from their superior officer Government can look into those cases; but if it is asked in a general w to have an enquiry into all cases of promotion, it would not be fair the officers concerned.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, are v to take it that those persons who are higher up in the list were promot later on on account of their seniority only and that they were not all efficient?

The Hon'ble Khwaja Sir NAZIMUDDIN: Certainly not. Here aga I may say that promotion depends on various factors. It may be th for a particular post that was vacant and for which the clerk w required, a senior man was not suitable for the work but when the ne vacancy occurred, this man could do that work. So, naturally I was given preference.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: From th list we find that for ordinary Upper Division posts, no clerk wh occupied a senior position in the list was appointed?

The Hon'ble Khwaja Sir NAZIMUDDIN: Quite true. But it ma be that these Upper Division clerks might have been doing that part cular kind of work. Supposing, somebody had been doing a particula kind of work, e.g., the work of the Court of Wards, I am merely givin an illustration. It may be that a particular clerk may not be qualifie to do that work.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Are we t suppose that a senior clerk is not allowed to work in different depart ments to acquire knowledge of those departments?

The Hon'ble Khwaja Sir NAZIMUDDIN: It is quite possible tha they may not have to work in different departments.

Khan Bahadur SAIYED MUZZAMUDDIN HOSAIN: In order that there may not be any injustice to senior clerks, would it not be better to fix a rule that the case of no junior Lower Division clerk would be considered for promotion unless he has put in, say, ten years' service, so that very junior clerks may not supersede senior men due to the likes and dislikes of the officers concerned?

The Hon'ble Khwaja Sir NAZIMUDDIN: I agree fully with the hon'ble member that very junior clerks should not be promoted because promotion should be based on two considerations—seniority and merit and not merely on merit or not merely on seniority. As the suggestion has been made, Government will look into the matter and see whether such a rule can be made.

Mr. KADER BAKSH: From the answers given by the Hon'ble Minister to the supplementary questions, are we to understand that no injustice was done to any of the clerks when promotion was given on these lines?

The Hon'ble Khwaja Sir NAZIMUDDIN: Government assume that their officers do not do injustice to their subordinate officers.

Estates which applied to come under the management of the Court of Wards.

56. Mr. RANAJIT PAL CHOUDHURY: Will the Hon'ble Minister in charge of the Revenue Department be pleased to state—

(*a*) the number of Estates that have applied to come under the management of the Court of Wards since September, 1938;

(*b*) the number of Estates that have actually been taken over by the Court of Wards for management since that date;

(*c*) the names of all such Estates so taken over;

(*d*) the reason or reasons that have been set out by the owners of those Estates for coming under the management of the Court of Wards;

(*e*) the number of Estates that have come under the management of the Court of Wards during the five years before September, 1938; and

(*f*) the number of Estates that have been released from the management of the Court of Wards during the five years prior to September, 1939?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) Thirty-one.

(*b*) Eighteen.

(*c*) and (*d*) A statement is laid on the table.

(*e*) Forty-three.

(*f*) Thirteen.

Statement referred to in the reply to clauses (c) and (d) of question No. 56, showing the estates that applied to come under the Court's management and taken charge of since September, 1938.

1. Estate of Babu Harinarayan Mazumdar Chowdhury and another (Narayandahar Estate No. II, Mymensingh).

Charge taken in September, 1938.

Grounds—Co-sharer with Narayandahar Estate Nos. I and III under the Court—Better arrangement for clearing joint ancestral debt.

2. Estate of Babu Jogendra Nath Tewari, Chittagong.

Charge taken in December, 1938.

Grounds—The ancestors of the petitioner rendered valuable service to Government—Minor's interest.

3. Estate of Rai Sir Satya Charan Mukherjee Bahadur (Mukherjee Wards Estate, Uttarpara).

Charge taken in January, 1939.

Grounds—Indebtedness and physical defect of two of the proprietors and the third engaged in Government work at Delhi and Simla.

4. Estate of Surja Prasanna Bajpai Chowdhury (Parerhat Wards Estate, Bakarganj).

Charge taken in March, 1939.

Grounds—Political services.

5. Estate of Maharaja Sir Prodyot Kumar Tagore, K.C.I.E., Calcutta (Tagore Raj Wards Estate).

Charge taken in April, 1939.

Grounds—Historical importance—Heavy indebtedness.

6. Estate of Babu Narendra Narayan Mazumdar Chowdhury (Narayandahar Wards Estate No. III, Mymensingh).

Charge taken in April, 1939.

Grounds—Co-sharer with Susang Baratahabil Estate under the Court. One of the proprietors is of unsound mind and declared by the District Judge to be a lunatic.

7. Estate of Babu Chandi Prosad Sinha Roy, of Chandernagore (Singh Roy Wards Estate, Hooghly).

Charge taken in May, 1939.

Grounds—Indebtedness.

8. Estate of Babu Satya Tapan Ghosal, Bakarganj.

Charge taken in June, 1939.

Grounds—Co-sharer estate—Protection of minor's interest.

9. Estate of Chakma Raja Nalinaksha Roy (Chakma Raj Estate, Chittagong).

Charge taken in July, 1939.

Grounds—Importance of family as head of the Chakma *Mughs*.

10. Estate of Rai Radhika Bhusan Roy Bahadur and others (Tarash Wards Estate, Pabna).

Charge taken in July, 1939.

Grounds—Important family; indebtedness and protection of minor's interest.

11. Estate of Mr. Satyendra Chandra Ghosh Maulik, C.I.E. (Bhulua Wards Estate, Noakhali).

Charge taken in July, 1939.

Grounds—Indebtedness.

12. Estate of late Maharaja Sir Manmatha Nath Roy Choudhury, of Santosh (Santosh Wards Estate No. I, Mymensingh).

Charge taken in July, 1939.

Grounds—Heavy indebtedness. Public service rendered by the late Maharaja.

13. Estate of Mr. Pramatha Nath Roy Chaudhury, of Santosh (Santosh Estate No. II). (Brother of late Maharaja.)

Charge taken in July, 1939.

Grounds—Heavy indebtedness.

14. Estate of Srimati Binapani Dasi (Janbazar Wards Estate No. I).

Charge taken in August, 1939.

Grounds—Indebtedness—Protection of minor's interest.

15. Estate of Mr. Narendra Nath Mitter of Jhamapukur. (Jhamapukur Wards Estate).

Charge taken in August, 1939.

Grounds—Old age of the proprietor and his inability to manage the estate. The family is well known for its charities and philanthropy.

16. Estate of Hon'ble Minister P. D. Raikut (Baikunthapur Wards Estate, Jalpaiguri).

Charge taken in September, 1939.

Grounds—Heavy indebtedness.

17. Estate of Babu Dharani Mohan Roy (Rammohan Roy Wards Estate).

Charge taken in September, 1939.

Grounds—Historical importance of the family. Indebtedness and protection of minor's interest.

18. Estate of Birendra Kishore Dutta Chaudhury and others (Rouha Wards Estate, Mymensingh).

Charge taken in October, 1939.

Grounds—Co-sharer of Narayandahar Estate No. III—Protection of minor's interest.

Mr. RANAJIT PAL CHOUDHURY: Will the Hon'ble Minister be pleased to state if Government are satisfied with the management of the Court of Wards?

The Hon'ble Khwaja Sir NAZIMUDDIN: Under the circumstances and as far as possible everything is being done, but there is certainly room for improvement.

Mr. RANAJIT PAL CHOUDHURY: Will the Hon'ble Minister be pleased to state how many indebted estates have been released in a solvent condition?

The Hon'ble Khwaja Sir NAZIMUDDIN: I ask for notice.

The Campbell Hospital.

57. Begum HAMIDA MOMIN: (*a*) Is the Hon'ble Minister in charge of the Public Health and Medical Department aware that both the male and female tuberculosis wards in the Campbell Hospital are in the same block as the general medical ward?

(*b*) Are the Government aware that there is a panic amongst the patients of the general medical ward owing to the close proximity of the tubercular ward?

(*c*) If the answers to paragraphs (*a*) and (*b*) be in the affirmative, will the Hon'ble Minister be pleased to state what steps he proposes to take to separate the location of these two wards?

MINISTER in charge of the PUBLIC HEALTH and MEDICAL DEPARTMENT (the Hon'ble Mr. Tamizuddin Khan): (*a*) Yes.

(*b*) I am not aware that there has been any such panic.

(*c*) The question of providing separate accommodation for tubercular patients is receiving my consideration.

Begum HAMIDA MOMIN: With reference to answer (*b*), will the Hon'ble Minister be pleased to state if he is aware that already infection has spread amongst the nurses and also, I think, amongst certain doctors who have to work there?

The Hon'ble Mr. TAMIZUDDIN KHAN: That is not my information.

Rai Bahadur KESHAB CHANDRA BANERJEE: Will the Hon'ble Minister be pleased to give an assurance that he will dispose of the matter as early as possible?

The Hon'ble Mr. TAMIZUDDIN KHAN: Yes, Sir, I can give that assurance.

Mr. PRESIDENT: Order, order. Non-official resolutions will now be taken up for discussion.

Non-official Resolutions.

Khan Bahadur M. SHAMSUZZOHA: Sir, I beg to move that this Council is of opinion that in respect of the appeals and petitions to be made by clerks of all departments in the mufassil districts under the Government of Bengal who feel aggrieved by being passed over in case of promotions, the existing personnel of the appellate authority be replaced and the said power do vest in a Board consisting of five members as follows:—

(1) A Senior I.C.S. from the Judicial line (*ex-officio* Chairman of the said Board),

(2) Two Muhammadans M. L. A's or M. L. C's.

(3) One Scheduled Caste M. L. A. or M. L. C.,

(4) A non-Muhammadan M.L.A. or M.L.C.,

and that the aggrieved clerk be afforded all reasonable facilities to present his case before the appellate authority excepting that he should bear his own expenses.

Sir, my object in moving this resolution is very simple. Fortunately, much information has been elicited just now from the answer to question No. 55 of to-day and the House is in possession of certain instances amongst many others that have not been disclosed yet from which it is evident that there is a genuine grievance on the part of a very large number of ministerial officers in all offices and in all departments of this Government in the mofussil districts that their cases, so far as promotions are concerned, are not receiving adequate consideration. Sir, it has been observed by the Hon'ble Minister in charge that if an enquiry is instituted into these matters, it might be interpreted as loss of confidence in those officers who are responsible for such promotions. I ask, Sir, can that be pleaded as sufficient justification for non-intervention? In spite of this, Sir, I am sure you will be convinced that there is a genuine feeling in the country that there are very many hard cases in which justice has not been meted out.

Then, Sir, I come to the question of appeals. On this point, I make bold to say that the rules, as they stand at present, are themselves too stringent and there are so many conditions attached to them that it seems that the right of appeal given to the clerks has been, so to say, given in by one hand and taken away by the other. Besides, it cannot also be denied that when these cases are taken up, adequate attention cannot be, and as a matter of fact, is not paid to them, because almost all the appellate authorities who are to consider these cases are so much over-worked that in spite of their best intention to do justice, in fact they cannot do so. As the question of promotion is of great importance, it is only fair that closer attention should be paid to these cases and the clerks should get redress of their genuine grievances at any cost. Apart from the rigorousness of the rules themselves in their application to individual cases, the influence of red-tapism and nepotism is scarcely overcome. In deciding these cases as the rules enjoin, the present appellate authorities have more or less to go upon the notes of officers subordinate to themselves and particularly of those officers against whose orders these appeals are preferred. I submit, Sir, that these appeals should be considered with an eye to strict impartiality which alone can mete out justice effectively. But this is not being done in practice with the result that in these cases the appellate authorities always try to maintain the orders appealed against and consequently justice is not done to people who deserve it most. It is our sad experience that the tests of seniority, efficiency and merit are much abused. With the advent of Provincial Autonomy, all classes of people have begun to cherish, —as they have a legitimate right to do,—that all bureaucratic methods must give place to a new order of things. It is the sacred duty of the Ministers of this autonomous Government to ensure conditions in which every community and every individual may feel that genuine

grievances will be redressed and that every one will be guaranteed all legitimate opportunities to enjoy his due right unfettered by the trammels and shackles which so long retarded advancement and progress.

Sir, the answers given by the Hon'ble Minister to-day reveal a state of affairs which is not at all rosy. I would only ask the Hon'ble Minister to kindly give his most careful attention to this question which is being mooted to-day because these are legitimate grievances of those people who form a vast majority of the public servants in the mofussil districts of the province on whom the brunt of the administration really falls. So, with due sense of responsibility, I, on their behalf, would urge upon this House to give their most sympathetic consideration to the resolution. There are many clerks belonging to all classes, castes and creeds whose cases have been overlooked and who have been passed over. In spite of the fact that their cases have not been given sympathetic consideration, they have submitted to their fate with resignation and are suffering with commendable patience and calmness. Having regard to these facts and having regard to the fact that these appellate authorities have got to do strenuous and multifarious work and having regard also to the viewpoint which has been advanced and the angle of vision and the standpoint from which these appeals should be heard, I have proposed in this resolution that the existing personnel of the appellate authority be replaced and that their powers do vest in a Board. In order that the official viewpoint may receive its due consideration in the hearing of these appeals, I have proposed the inclusion of a senior I.C.S. officer from the Judicial line, who shall preside over the deliberations of this Board. And in order that the questions arising out of these appeal cases may be duly and adequately considered from all sides, provision has been made for inclusion in the Board of the representatives of all communities from amongst the members of both Houses of the Legislature. I do not wish to take up much time of the House. With these few words, Sir, I commend my resolution to the acceptance of the House.

Mr. PRESIDENT: Resolution moved: That this Council is of opinion that in respect of the appeals and petitions to be made by clerks of all departments in the mufassil districts under the Government of Bengal who feel aggrieved by being passed over in case of promotions, the existing personnel of the appellate authority be replaced and the said power do vest in a Board consisting of five members as follows:—

(1) A Senior I.C.S. officer from the Judicial line (ex-officio Chairman of the said Board),

(2) Two Muhammadan M.L.A.'s or M.L.C.'s.

(3) One Scheduled Caste M. L. A. or M. L. C.,

(4) A non-Muhammadan M.L.A. or M.L.C.,

and that the aggrieved clerk be afforded all reasonable facilities to present his case before the appellate authority excepting that he should bear his own expense.

Mr. NUR AHMED: Sir, I beg to move by way of amendment that, for all the words beginning with "in respect of appeal" in line 1 and ending with "(4) A non-Muhammadan M.L.A. or M.L.C." appearing in line 12, the following be substituted, namely:—

"a more representative appellate forum be framed in place of the present appellate authority by Government of Bengal in such a manner as they think just and proper, to hear appeals and decide petitions and other representations regarding injustice done in cases of promotion etc. submitted by all clerks of all departments of the Government of Bengal serving in the mufassil districts of Bengal."

Sir, frankly speaking, I find myself in a very delicate position in moving this amendment to the resolution. Having regard to the supplementary questions put during the Question Hour to-day indicating the existence of a sad state of affairs, I feel I owe an explanation to the House. I think that this is a matter which concerns the efficiency of the administration and before we do anything definitely on this point, we must consider the pros and cons of the matter. Sir, the mover of the resolution has come before the House with a proposal which, I must say, with due deference and respect to his learning and erudition, is very novel and at the same time very unworkable. It is a known fact that the promotion of a clerk depends on his merit as well as on his seniority. How is it possible for an outside body having nothing to do with the working of the particular department,—however just, however representative and however competent that outside body may be,—to decide the case of the promotion of a clerk? It is a matter for the hon'ble members of this House to judge. There is involved in this proposal a very vital question of discipline and efficiency. If clerks know that faithful and honest work will not be rewarded by the particular officer under whom they work, how will they obey his orders? Will they do their duty properly if they know that there is an outside body sitting over his officer and that the superior officer of the department is not the ultimate deciding authority? I again appeal to the House to consider that aspect of the question. It is said that we have got autonomy in Bengal. If that is so, we have our popular Ministers at the head of the various departments. Can you not rely on them? I must admit that there have been complaints that in the case of promotions the just

and legitimate claims of clerks are ignored. It may be due to nepotism. It may be due to favouritism. It may be due to other causes. But it is difficult to ascertain the truth in every case. In a department there are many clerks. When the question of promotion comes, everybody thinks that he has got just and preferential claims. So, complaints are very frequent and insistent, and it is very difficult to say how far those complaints are true in every case. I, therefore, move this amendment and by this amendment I leave the matter to the Government to see if a more satisfactory appellate authority could be constituted or not. With these few words, I commend my amendment to the acceptance of this House.

Mr. PRESIDENT: Amendment moved: That for all the words beginning with "in respect of appeal" in line 1, and ending with "(4) A non-Muhammadan M.L.A. or M.L.C." appearing in line 12, the following be substituted, namely:—

"a more representative appellate forum be framed in place of the present appellate authority by Government of Bengal in such a manner as they think just and proper, to hear appeals and decide petitions and other representations regarding injustice done in cases of promotion etc. submitted by all clerks of all departments of the Government of Bengal serving in the mufassil districts of Bengal."

Khan Bahadur NAZIRUDDIN AHMAD: Sir, the resolution together with the amendment can be divided into two parts. One is an expression of an opinion and the other is the suggestion of a remedy. I shall confine myself to the expression of opinion. As has been submitted to this House, to-day's questions have disclosed a very sad state of affairs. The answers of the Hon'ble Home Minister to a series of supplementary questions, though highly sympathetic, have left us with an uneasy feeling that justice has not been done in the majority of cases. Hon'ble members of this House have asked questions to know how the administration is going on in the province and the answers in some cases, I am sorry to say, have been extremely unsatisfactory. Sometimes they have been evasive and sometimes truth has been mixed with suppressions, if I may use the expression. On one occasion, it amounted to a lie adorned by misrepresentations. I am sorry to make these remarks, but I felt deeply and do not feel inclined to suppress my feelings. I believe that by speaking out openly and frankly, we do really help the administration. For the information of the Hon'ble Minister, I shall submit to him two cases; one of a Hindu and the other of a Muhammadan. I do not wish to deal with the communal aspect of the question. Injustice is not invariably due to communal reasons. I believe injustice results in many cases from far deeper causes. There

are Office Superintendents and office masters. They have their likes and dislikes. They have their sons and nephews as well as their sons-in-law, nephews-in-law, brothers-in-law, brothers' sons-in-law and a host of similar legal relations as well as their *proteges* and admirers. On one occasion, the late lamented Maulvi Abul Kassem, of the old Bengal Legislative Council, asked a question as to how many legal and other relations a few office masters of the Burdwan Collectorate had under them. It was disclosed that they had 30 relations through marriage or consanguinity in that office and they constituted a very large proportion. The question which was put by Khan Bahadur Ataur Rahman to-day was directed to elicit the answer that the claims of Muhammadan candidates have been systematically neglected. No doubt, the claims of Muhammadan candidates have been so neglected. But coming from the district touched by these questions, I must submit that injustice has been fairly and evenly distributed between the two communities. I know there was an Office Superintendent who had a son-in-law who was an insurance agent. Whenever a promotion was in the air, people could predict the fortune of a particular candidate and how? If a candidate had insured his life through the Superintendent's son-in-law, then it was a foregone conclusion that he would be promoted. I am informed by many of my hon'ble friends in this House that this is not a disease confined to Burdwan only. Burdwan is only a type of which there are numerous and glaring examples throughout the province.

Coming to illustrations, I would like to inform the House that some days back Khan Bahadur Saiyed Muazzamuddin Hosain asked a question the answer to which revealed a serious and deplorable state of affairs in Burdwan. There is a Gradation List which is preserved in the Collectorate. It is a very valuable document. It is always referred to as an authoritative record of the gradation of clerks. It appears that it is a book which is written and amended from time to time, exclusively by the Collector. Its contents can never be changed except by the Collector. All corrections and amendments in this List must bear the initials of the Collector. It remains in the custody of the office Superintendent. In this particular case, it was in the actual custody of a certain clerk. A serious interpolation was made in the list as the result of which the name of the clerk who had the actual custody of the register was scored through without the knowledge or permission of the Collector and put much higher up in the list. It was admitted on the floor of the House the other day that these changes were unauthorised. They bore no initials. Another clerk, a Hindu, who was prejudicially affected by such interpolation appealed to the Divisional Commissioner. His appeal was allowed and the Commissioner found that the interpolation was absolutely unauthorised. Then, the offending clerk, whose name had been clandestinely put higher up in the list,

appealed against the Commissioner's order to the Revenue Board. Strangely enough, the Office Superintendent supported the claims of the offending clerk. His appeal was dismissed. In my humble submission, the interpolation amounted to forgery. But no action was taken against any one for this daring act. The reason given is unconvincing. Meanwhile, the clerk who had appealed before the Commissioner was never informed of the result of his appeal. He petitioned the authorities but no information nor copy of the decision was supplied. He submitted an application to the Commissioner to ascertain the fate of his appeal but his application was not forwarded. After a long interval, the result of the appeal gradually leaked out, but strangely enough the offending clerk who was concerned with the forgery of this very important public document was given a promotion.

This was the case of a Hindu candidate. No communal influence was working there. In the next case which I am going to submit before the House,—it is the case of a Muslim,—possibly something of this nature happened. It is the case of a Muhammadan clerk whose name was——

Mr. PRESIDENT: Order, order. No reference should be made to any particular person by name because the authority concerned is not here and so he cannot place his case before the House. You can mention general cases without mentioning the name of any particular person.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I was going to mention the name not of any offending authority but of one who was the victim.

Mr. PRESIDENT: Please avoid all personalities, as far as possible.

Khan Bahadur NAZIRUDDIN AHMAD: All right, Sir. This individual, Sir, was a clerk and he was working in the Excise Department for about four years with credit and good name. There was a vacancy higher up in the department. According to ordinary practice, a suitable man from the department is promoted and in the ordinary course he would have been promoted but he was passed over. Another clerk slightly senior to him was brought from another department; he had no experience of this department and had not a good record, while the clerk who was superseded had a uniformity good record. There was a volume of correspondence over this, and the reason assigned for overlooking the claims of a really meritorious candidate was that otherwise there would be heart-burning among senior clerks in other departments. In this case, the question of admitted superiority of merit was absolutely ignored and brushed aside and another man was taken in ignoring proved efficiency.

These are some of the illustrations. I have already submitted, Sir, that these are typical cases and that injustice is done in many cases in my district. The clerks suffer silently. They have no right of appeal, so to speak. The man about whom I spoke first,—the Hindu candidate,—got punished for making an appeal and causing a serious disclosure. He was sent to the Kalna Subdivision which is regarded as a penal station. Kalna stands in the same relation to Burdwan as the Andamans do to Bengal. It is a very unhealthy place. A man is sent there only once during his service period. Nobody is sent there twice, but this man was sent there twice. He had also another grievance. He applied for redress of the grievance. That was rejected. He asked for a copy of the order. The copy was refused. The clerk preferred an appeal to the Divisional Commissioner. The authorities refused to forward his appeal to the Commissioner on the ground that he had not submitted a copy of the order appealed against—a copy which was refused to him. This is how things are done under the Provincial Autonomy. It seems Provincial Autonomy has not penetrated into the districts. Many things do not reach the ears of the Collector.

Sir, that the Hon'ble Home Minister will earn the gratitude not only of the vocal public but also of the silent, toiling, suffering clerks in the districts by providing for an enquiry into their grievances.

The Hon'ble Khwaja Sir NAZIMUDDIN: I feel, Sir, that the hon'ble member who moved this resolution has not been able to make out a case, and the reply that has been given is most effective—I mean the amendment that has been moved by Mr. Nur Ahmed,—although personally I do not agree with that amendment also. What Mr. Nur Ahmed has said in his speech is, in my opinion, very pertinent, namely, that as far as cases of promotion are concerned of clerks serving in particular offices, it is impossible for anybody to judge the question of promotion solely from the records kept in the confidential character roll. To a certain extent, one has got to be guided by the opinion of the man under whom he is immediately working, because he is the person who sees his work daily and who is also responsible to a certain extent to get the work done. Therefore, Sir, his opinion is important and material, and the question of promotion is generally decided in the cases of clerks by the District Magistrates and other Heads of departments themselves. In a Commissioner's office, it is the Commissioner who decides questions of promotions. I do not think, Sir, that if a Board is appointed, as suggested by the hon'ble member, it will be able to do justice in the matter of promotions from the clerical ranks, because as Mr. Nur Ahmed has said, and it is also my personal experience, that every man considers himself not only fully qualified but practically the best man in the office, and it is impossible to satisfy and to convince him that he is not so. First of all, Sir, the Board shall have innumerable applications which, I am sure,

it will find it impossible to deal with, because every clerk who is superseded will come up before the Board. Nobody is ever satisfied that he is rightly superseded. Everybody feels that he ought to be promoted.

Secondly, Sir, what will happen will be that the Board will find it extremely difficult to decide between the claims of A, B and C who have been superseded.

Thirdly, Sir, they will find it difficult to judge whether a man has been rightly promoted or wrongly promoted.

And last of all, Sir, what will happen will be—and this is a matter which I should like the House also to consider and I refer to it from the point of view of administration—that you will have all these ministerial officers approaching the members of the Board and trying to influence them about their respective cases. From the point of view of discipline, it will be difficult for anyone to observe it if you have a Board of the kind proposed by the hon'ble member to go into the question of promotions. After all, Sir, the human element cannot be avoided altogether. There are people, Sir, who are to a certain extent lacking in merit. Even in the case of a person who is trying to get the best man without any other consideration whatsoever, if he has known a particular man, if he has seen his work, he is bound to pick him up in preference to others whom he has not known and whose work he has not seen but who may have an equally good record. It is happening every day. I know a particular officer; I have seen his work. When I want a man, naturally my idea goes immediately to him. I may consider other cases as well, but the chances are that the man who is known to me, and whose work I have seen and who has worked with me—I may be inclined to give him preference. This will happen always. The personal factor is bound to a certain extent to prevail over other considerations. You can never have absolute justice.

Similarly, as I have pointed out, this is a question which we should leave to the District Officers concerned or to the persons who decide the question of promotions. But the only way in which this evil can be checked is: whenever you find that real injustice has been done, if the matter is brought to the notice of the relevant authority, Government will see that action is taken; and if anybody has deliberately done any injustice, he will be severely punished. For example, I feel that the case which has been cited by Khan Bahadur Naziruddin Ahmad about the person who got his name put higher up in the gradation list in an unauthorised manner and then managed to secure his promotion, if that case is brought to the notice of Government, and if the officer concerned is found to be guilty, he will be severely dealt with, so that in future others will think twice before they do it. The only way in which an improvement can be made in this direction is: whenever Government are satisfied that somebody has not been doing

his duty honestly and properly, then Government will take drastic action. That alone is the remedy which will prevent others from behaving in a similar manner in future. I do not think that you can rectify this by means of merely appointing a Board. Hon'ble members who have spoken to-day—one or two of them—have cited definite cases. We have also in our private capacity heard of many instances where people are superseded without any justification. There are cases where officers think that they ought to have been promoted and that they have been wrongly superseded but as a matter of fact I know that they have been rightly superseded. You have got both sides of the question. Simply because an officer who has been superseded comes up with a grievance, it is not always correct to infer that the officer has been wrongly superseded. I know of cases in which the officers hold very strong opinion that they had been wrongly superseded. I know of a particular officer who thought that he ought to be made a Subdivisional Officer. As a matter of fact no notice was taken of his case because his confidential character roll was most damaging, and yet this officer persisted in arguing that he had got a good record. So, as I was saying, you have got both sides of the question.

In view of what has been stated here to-day and in view of the facts that have been placed before Government, Government can look into this question and see how far they can ensure that promotions are made purely on the basis of seniority and merit. As a matter of fact, there is a lot of misapprehension about this. On reading the rules, I find that they are to a certain extent defective. As a general proposition, we have this theory that promotions should be made on the basis of seniority and merit. But I find, for instance, in rule 64 of the Board's Miscellaneous Rules, that promotions are to be made having regard to a man's special fitness for the post, and that unless other considerations are equal, seniority is not to be treated as the deciding factor in filling up a post. Now, I am afraid, this is to a certain extent against the principle that Government have been following, namely, that in making promotions, both seniority and merit be taken into consideration. According to this rule, first comes fitness and then if there are two people of equal merit, the question of seniority comes in. As far as this question is concerned, I think it will be advisable for Government to go into it more carefully and see if we can have rules which will, as far as possible, avoid cases of abuse of this rule of seniority and merit and prevent the Head Assistants, Sheristadars etc. from getting their relations promoted before their time. In view of what I have stated, I hope the honourable member will withdraw his resolution. I may assure him that Government will go into the question again and as far as possible see that injustice is not perpetrated in future.

Mr. HUMAYUN KABIR: Mr. President, Sir, I had no intention at all of saying anything on this resolution, particularly because I

agree to a very large extent with the objections which have been raised by the Hon'ble Sir Nazimuddin. Nevertheless, there are one or two remarks which he made and which bring me to make a suggestion for the consideration of this House and the Government. He has himself admitted that the rules as they stand now are defective and the practice of the Government has sometimes complicated the matter even further. The rules say that merit should be the only criterion for promotion and yet the usual practice of the Government has been to take into consideration both merit and seniority. As the hon'ble member sitting opposite very pertinently observed, who is going to judge the merit? Most of the heart-burnings arise because there is a feeling in the minds of many of these subordinate officers, clerks and ministerial officers, that proper recognition of their merit is not forthcoming. Very often—and I think those hon'ble members who have been associated with the work of the Government will bear me out—very often there is a feeling that it is patronage, it is a question of favouritism or a question of the personal predilections of a superior officer which is responsible for the promotion of an individual rather than his own interinsic merit, and I think that the Hon'ble Sir Nazimuddin has to a certain extent conceded this point. He has admitted that it is not possible for the superior officer to know equally well all his subordinate officers. Sometimes it may be that in a perfectly *bona fide* manner—I am not going now into the question of *mala fide*—a particular superior officer may have seen the work of only one particular man and may have promoted him and there might at the same time have been in that office other individuals with equal, if not superior abilities. How are you going to prevent that state from continuing if the present haphazard and chaotic rules with regard to promotion obtain? That is why, Sir, I rise to make a suggestion, to ask the Government if they will not consider a system which is in vogue in many places of the world and I believe which is in vogue in the Army Department in this country as well. There, promotions are made strictly by competitive examinations. Different groups are placed in different categories. If there is any question of communal representation or representation of particular groups, you might reserve the number of promotions within each group. You might also have people who do not want to face that examination. They will go on in the steady course of routine and will reach the usual maximum in 20 or 25 years or whatever may be the normal course of their service-life. In the case of others who have greater confidence in themselves and who feel that they are better than some of their follow-officers, they might face this competitive promotion examination. In the Army Department, they have these examinations and those who do well in the examinations, the best men of each category, are given promotions. In that case there would be no heart-burnings, no question of depending upon particular prejudices or predilections of a superior

officer and considerations such as the relationship to Sheristadars or Head Assistants. None of these questions would arise. Here, of course, the objection might be raised that a man might be good at examinations and yet there might be others who are in other ways better than that man. Well, allowance might be made for that fact also. The past record might also be taken into consideration and a certain proportion of the total marks might be given for day to day work. Superior officers instead of leaving behind generally vague and very often intangible remarks might say in concrete terms in percentages, if the total number of marks for efficiency in office work was 100, that in their opinion such and such a person would get 40, 50, 60 or 70. Apart from that, there might be written papers for testing general efficiency, knowledge and presence of mind. All these different factors might be considered together in deciding promotions. If such a system were introduced, I am sure it would go a very long way towards meeting many of the grievances which at present do exist. At least nobody could say that he has been passed over without being given a trial. This would not entail any hardship on those who do not want to face the examination. In the Army Department, if I am not wrong, at present the system is that a man goes on steadily and probably becomes a Captain at the end of 12 or 14 years. But if he has greater confidence in himself and if he is a man of special ability, he has the option of taking an examination at the end of 6 or 7 years and if he passes the examination, he is immediately given the Captain's rank and in this way, he may proceed throughout the different ranks in the Army. I do not see any reason why the Government should not consider some such system because this would immediately obviate the injustices which do happen, and the Hon'ble Sir Nazimuddin has himself admitted that in some cases injustices do happen. As I have stated earlier, I am not going into the question of *mala fides*. Let us admit that the mistakes are *bona fide* mistakes. Even if they are *bona fide* mistakes, there is no special reason why a particular deserving candidate should be deprived of a promotion which is his due. I would, therefore, ask the Hon'ble Minister to consider the suggestion when he takes up the whole question of revision of the rules under which promotions are made.

Khan Bahadur M. SHAMSUZZOHA: Sir, in view of the assurance given by the Hon'ble Minister, I beg leave of the House to withdraw my resolution.

Mr. NUR AHMED: Sir, I also ask the leave of the House to withdraw my amendment.

Mr. PRESIDENT: Is it the pleasure of the House to allow the movers of the resolution and the amendment to withdraw them?

(No objection being raised, the resolution and the amendment were, by leave of the House, withdrawn.)

Rai Bahadur SURENDRA NARAYAN SINHA: Sir, I beg to move that this Council is of opinion that the Government of Bengal should either grant an annual subsidy to the Bengal Flying Club, Limited, to enable them to popularise and extend their activities in teaching the theory and practice of flying, or themselves found some stipends for the training of air pilots and Ground Engineers and thereby develop an interest of the people of the Province in Aviation.

Sir, we are in the midst of an air-age at present and no arrangement, be it either for defence or locomotion, is at all adequate unless there is provision for aeronautical training of persons who undertake these things. But the beginnings of all good and reasonable things need some nurture, and so air-mindedness of the common people has to be created. In all progressive countries, Flying Clubs have been fostered by the Governments and the hands of a few air-enthusiasts are strengthened by those in power. In Bengal, air communication has not developed to any great extent. Important distant towns like Dacca and Chittagong and Darjeeling are not yet connected by air service. Calcutta is no doubt a big air-port but there is very little provision for training young men for air service. The Bengal Flying Club is an expensive institution. In order that there can exist greater facilities for all classes of people, this Club ought to decrease their membership fees and at the same time receive greater revenue. But this is impossible without some contribution from State funds. So, some subsidy should be granted by the Government not only to the existing Flying Club, but also to others which should grow up all around Calcutta. We do not know the exact position in regard to the air defence of this city and of India, in general. Unless we train young men for civil aviation, we cannot get a sufficient number of men for the Air Force. If we want to take our proper place in the Defence Force for India, the inhabitants of Bengal should be encouraged to be more air-minded as the future menaces to the freedom of this land lies both from the East and West from the air.

With these words, Sir, I beg to move the resolution and I hope no one will dissent from it.

Mr. PRESIDENT: Resolution moved: That this Council is of opinion that the Government of Bengal should either grant an annual subsidy to the Bengal Flying Club, Limited, to enable them to popularise and extend their activities in teaching the theory and practice of flying, or themselves found some stipends for the training of air pilots and Ground Engineers and thereby develop an interest of the people of the Province in Aviation.

Mr. NUR AHMED: Sir, I beg to move that all the words beginning with "either grant" in line 2 and ending with "flying, or", in line 4, be deleted.

Sir, there are no two opinions in the country on this question. There is the utmost necessity of making the people of Bengal air-minded and especially so when we have been given provincial autonomy and when the question of full-fledged independence is in the air. I must say that as a great step forward has been definitely promised in regard to our political status after the war, we must prepare ourselves to defend our hearths and homes and it is admitted on all hands that those who want independence must be prepared to defend their country from being attacked by air. Then, it may be asked why I have moved this amendment. My only intention is to make a suggestion to the Government. The question of the grant of subsidies is a very difficult one. It involves a question of principle. There may be some other institutions which may come up for subsidy and there is no knowing how it will be spent by the Flying Clubs. But if we go to Government with a suggestion for founding scholarships, we can expect to get 20 or a good number of pilots and Ground Engineers trained every year. In that way, we can get a larger number of air pilots and Ground Engineers. Sir, I don't want to take up much time in commending my amendment to the acceptance of the House. I hope that the mover of the resolution will accept my suggestion. I have every sympathy with the object with which he has brought this resolution before the House.

Mr. PRESIDENT: Amendment moved: That all the words beginning with "either grant" in line 2 and ending with "flying, or" in line 4 be deleted.

Mr. NARESH NATH MOOKERJEE: May I suggest that Resolution No. 21 which relates to the same subject be also permitted to be moved? I make this suggestion with a view to the early disposal of the resolutions..

Mr. PRESIDENT: If the hon'ble member had given notice of an amendment, then the Chair would have no objection to accept it as such. But there was no notice of amendment.

Mr. RANAJIT PAL CHOUDHURI: Sir, I rise to support the resolution as moved by my honourable friend, the Rai Bahadur. I have a similar one in my name also. But, Sir, if the amendment is accepted, it would totally change the real character of the resolution, since Government would have to put up a new machinery to train up pilots, whereas in this case, they can get these pilots or rather these airmen trained through the Bengal Flying Club.

Sir, it is quite in the fitness of things that such a resolution has come up for discussion in this House at the present moment. What a great importance such a matter has, of late, assumed need not be emphasized. What a necessary part air-mindedness has been playing in modern life everywhere is evident to one and all. But our unfortunate country, still steeped in the old ways of thinking and education, had sadly been lacking so far in the teaching of the theory and practice of flying. Sir, if we have to exist as a nation with all modern conceptions, we have got to train our youths in aviation. Every encouragement must be afforded to the enterprising youths to take up flying as an avocation in life.

Again, in order to develop many more airways up and down throughout this country, to keep pace with our daily expanding necessities of civilised existence, growth of aviation on a very extensive scale is needed. It is, therefore, essential that we should look ahead of the times and provide some means by which we can popularise and develop aviation in the interests of our people. Such being the case, the suggestion put forward in this motion ought to find ready acceptance.

Sir, what I would propose is that the Government should select a few candidates and ask the Bengal Flying Club to give them the necessary preliminary training in the different branches of aviation. Advanced training may be obtained either abroad or with the help of the Military authorities. Some allowances should be granted by Government to the youths while under training and situations are to be found for them if they have successfully passed through their training.

Sir, I might mention here that the Bengal Flying Club receives a subsidy from the Central Exchequer but it is not sufficient to expand its activities and the rates are not so favourable as to make it more popular amongst all classes. I would, therefore, request our Hon'ble Minister to provide for even a small sum for the present to train our boys in aviation. Sir, with these few words, I support the resolution and I hope, Government will not ask us to withdraw the motion but deal with it sympathetically.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I believe the hon'ble members who have moved or spoken in support of this resolution are not clear about what the actual position is and how matters stand. At present, the only way in which you can have any training in flying for military purposes is through the help and co-operation of the Army Department. As regards military aviation, the direct system of entry into the commissioned ranks of the Indian Air Force is through the Royal Air Force College, Cranwell, England. The course lasts two years and the cost of training a cadet is £250 plus £276-8 to be contributed by the parent or guardian to cover items of

personal expenditure. As the Government of India contribute a sum of £240 towards the above expenses, the candidate is required to pay £286-8. Now, that is as far as military avation is concerned. At the present time, as I had stated once before, recruitment has been open, for the duration of the war to all Indians and all Indians can get their training if they join there—

Mr. NARESH NATH MOOKERJEE: In England?

The Hon'ble Khwaja Sir NAZIMUDDIN: I think, they are giving training in India and they are not sending out to England for immediate necessity.

The difficulty, as far as civil aviation is concerned, is that there is no guarantee of employment if you have qualified yourself and one of the speakers has suggested just now that we should see that they are employed. That is a very tall order. Government can provide facilities in some shape or other for persons to be qualified but they cannot take the responsibility of providing employment, especially as they themselves have nothing to do with it. At the present time, the Bengal Flying Club undertakes training for "A" licence pilots, and they are actually the cheapest as far as India is concerned. The instruction consists of about 15 hours' dual flying at a cost of Rs. 25 per hour. With medical fees and flying equipment, the average cost comes up to about Rs. 450 per candidate. According to the new subsidy agreement with the Club, a sum of Rs. 100 of this is returned to the pupil after he gets his licence. Thus the total amount a candidate has to spend for getting "A" licence is Rs. 350. For a "B" licence, the estimate of the cost of training is between Rs. 9,000 and Rs. 10,000 spread over a period of two years detailed below:—

	Rs.
125 hours solo cross-country flying at Rs. 28 per hour	3,500
75 hours general flying at Rs. 25 per hour	1,875
43 hours dual flying at Rs. 25 per hour	1,075
5 hours dual cross-country flying at Rs. 28 per hour	140
2 hours dual night-flying at Rs. 60 per hour	120
5 hours solo night-flying at Rs. 80 per hour	400
8 hours blind flying at Rs. 40 per hour	320
	7,430
Work hop training for two years at Rs. 30 per month	720
	8,150
Extra (for books, tools, landing fee, etc.)	850
	9,000

To be on the safe side, if you want to get "B" licence, it will cost you about Rs. 10,000 and that cannot be provided by the Bengal Flying

Club. It will have to be arranged with some of the private commercial firms to undertake it, such as the Tatas or the Imperial Airways or some other private company. Government have gone into this question before this resolution was moved and they have some proposals in view which at present I cannot announce, because until it has been decided and the amount provided for in the next budget, it will not be proper to reveal it at the present time. But we have got definite and concrete proposals and we are trying to find money which will enable some of the persons to secure "A" licence and perhaps "B" licence in the near future. So, it will be seen that we have not been absolutely idle over this question. We have enquired into all the facts and have got certain definite proposals which at the present time I cannot announce, but I would request the hon'ble members to wait till the Budget Session when our proposals will be made public and then if they are not satisfied, they can take it up again. In view of what I have stated, I hope the hon'ble member will withdraw his motion.

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, in view of the sympathetic assurance of the Hon'ble Minister, may I withdraw my resolution?

Mr. PRESIDENT: Is it the pleasure of the House to permit Rai Surendra Narayan Sinha Bahadur to withdraw his resolution?

(Cries of "Yes.")

The motion was then, by leave of the House, withdrawn.

Mr. KAMINI KUMAR DUTTA: Sir, I beg——

Mr. PRESIDENT: I am sorry, I made a mistake. I did not ask Mr. Nur Ahmed as to what is to be done about his amendment to the motion of Rai Surendra Narayan Sinha Bahadur.

Mr. NUR AHMED: Sir, in view of the fact that the original motion has been withdrawn, I beg leave of the House to withdraw my amendment.

Mr. PRESIDENT: Is it the pleasure of the House to permit Mr. Nur Ahmed to withdraw his amendment?

(Cries of "Yes".)

The amendment was then, by leave of the House, withdrawn.

Mr. KAMINI KUMAR DUTTA: Sir, I beg to move that this Council is of opinion that this Government should move the authorities concerned for obtaining an Order in Council under the provisions of section 290 of the Government of India Act, 1935, for altering the

boundaries of the Province of Bengal on the basis of linguistic affinities and the reunion of all Bengali-speaking areas in the Province of Bengal.

Sir, my resolution is a reasonable and modest one; but before I deal with the resolution, I think it my duty to remove any misapprehension that the ulterior object of my resolution is to convert the Muslim majority in Bengal into a minority and to make Bengal not a Muslim majority province but a Hindu majority province. The proposals which I would make for the alteration of boundaries would not as a matter of fact convert Bengal into a Hindu majority province. It would not affect the present position of Muslims in the province,—and the object of my resolution is not really to effect a change in that aspect of the province at all. So, in bringing my proposals before the House, I should, first of all, ask the hon'ble members to disabuse their minds of that impression. Indeed, taking the figures of the last census, I find that at present without the areas which I suggest for inclusion within the province of Bengal on the basis of linguistic affinity, the present percentage is: Hindu—44·11; Muhammadan—54·44 excluding some other small minority communities and if my proposal is accepted, the only change that would take place is that instead of 44·11 per cent, it would be a little over 45 per cent. That would be an alteration which would not really affect the position of the two communities in the province nor will it alter its character as a Muslim majority province. So, I would appeal to this House to judge my resolution and to consider the proposal which I would make bearing this fact in mind.

Really, the principle on which my resolution is based is now accepted all the world over. All the world over boundaries are being changed. Countries in Europe are changing their boundaries very fast and what is the basic principle underlying these changes of boundaries? The basic principle is that the people of one race should not be placed under different administrations. One race having the same language to exchange their ideas, and the same cultural affinity, should not be placed under different administrations. That would not only retard the growth of that particular province but it would really hamper the growth of that small portion which happens to be included in another province where they occupy a very minor position. So, from that basic principle that full growth of the culture should be allowed to each and every race, my resolution ought to be accepted.

My resolution is simply this: that all Bengali-speaking people ought to be brought under one administration, ought to be in one province and ought not to be scattered over two or three provinces as they are now placed. It retards their cultural growth; it hampers the growth of the Bengali race itself; particularly it retards the growth of those of us who are placed under an administration where they

occupy a very minor position. I need not deal further with that general principle. It is a principle which is now accepted everywhere in the world, viz., the basis for one unit of administration ought to be the language in which they express their ideas. The linguistic basis is the basis which is now accepted all over the world. Even in Europe, people are being repatriated from one country to another in order to make each country homogeneous, in order to foster the growth of a homogeneous culture and there is no reason why in Bengal we should depart from that principle. It is only after some haphazard alteration in the boundaries of the provinces that people who really were previously under the administration of Bengal have been shifted to other provinces. Even at the time of the inauguration of the new Constitution under the Government of India Act, 1935, new provinces were created. Orissa was created. Sind was created. So while new provinces have been created, power has been given under section 290 of the Government of India Act, 1935, also to alter the boundaries of the provinces, if that is the desire of the people living in the country. Now, if I place all the facts as they are before the House, I think no doubt can lurk in the mind of any one as to the reasonable character of my resolution.

First of all, I would take the places lying on the northern side of the province for instance, the district of Purnea. I would also take the Census figures of 1931. Of the District of Purnea, I shall take the two subdivisions, viz., the Sadar Subdivision and the Subdivision of Kishanganj. In Kishanganj, it appears there is a large number of residents who speak a dialect which goes by the name of Kishanganjia or Siripuria. In the Census of 1911, those people who speak this particular dialect, Kishanganji, were treated as Bengali-speaking people as Bengalis. Only in the later Census, they were mentioned as speaking Hindustani. But in the Linguistic Survey of India which is more authoritative in this respect it has been very clearly said that Kishanganjia is nothing but a species of North Bengal dialect. It is not really Hindustani. It is really Bengali dialect somewhat changed. On the question as to whether Kishanganjia is Hindustani or Bengali dialect, I think the opinion of the Census Officer of 1931 has to yield to the opinion of the commission for the Linguistic Survey of India. They did make a survey of the different languages spoken by different people of India and in that survey it has been very clearly mentioned that it is really a species of the Bengali dialect and that it has a close affinity to the North Bengal dialect. Kishanganj happens to adjoin North Bengal. As to the Sadar Subdivision it would appear that a very large portion of the people resident there are *Rajbangshis* or what they are called "*Kochs*". According to the Purnea Gazetteer, there is a racial affinity between these people and the Bengalis and most of them are now nothing but Mussalmans. They are called *Rajbangshis* but the Census report shows that they

have now embraced the Islamic religion. They inter-marry with North Bengal Muslims and belong to the same race with them. So, considering the position of both the Subdivisions (Sadar and Kishanganj) of the Purnea district from the point of view of the language and from the point of view of racial affinity also, there is no reason why that area should not be included within the province of Bengal. While speaking about this district which is densely populated, I again say here that one may think that if that is done, there will be an addition to the Hindu community. No doubt they are called *Rajbangshis* but they are Muslims by religion and by conversion.

Then, I come to Sonthal Parganas. There are three languages spoken here, viz., Bengali, Hindustani and the language of the aborigines; and indeed, the aborigines preponderate in the percentage of the population. But the special feature to be noted about the language used in this area is this that the aborigines speak Bengali as the second language and not Hindustani. For interchange of ideas with people outside their own tribe, they use the Bengali language and not Hindustani. Taking the percentage of those who speak the Bengali language and those who speak the aboriginal language using Bengali as the second language, certainly their number preponderates. In the Sonthal Parganas, there are six Subdivisions, viz., Jamtara, Dumka, Pakur, Rajmahal, Gadda and Deoghar. As to Gadda and Deoghar, I must say that the percentage of the Bengali-speaking population is very small. We have no reasonable claim to have them included in Bengal; but as to the other four Subdivisions which are close to Burdwan, Birbhum and Malda, both on the principle of affinity of language and affinity of race, they ought to be included within the province of Bengal. In Jamtara, the aborigines preponderate in number, but as I have already said, they are practically Bengali-speaking people. They speak their own language in their houses, but when they come out of their houses and mix with other people, it is the Bengali language which they use. In Dumka also, some of the thanas are practically very close to Birbhum and one is apt to think as if they are parts of the Birbhum District itself. In Pakur, according to the Census figures, there is an absolute majority of the Bengali-speaking people. Then, as to Rajmahal, it may be said that the whole area cannot be incorporated with Bengal but some of the thanas which are adjoining the Bengal districts, may be reasonably included.

Then, I would come to the district of Manbhum. It has got two Subdivisions, Sadar and Dhanbad. In Sadar, the Bengali-speaking population is in an absolute majority. In Dhanbad too, on a superficial view, it may be said that those who speak the Hindustani language may be larger in number, but if scrutinised it would appear that those who speak Hindustani are not the permanent residents of Dhanbad but only labourers who have come to Dhanbad in connection

with the coal industry. Dhanbad is not the permanent place of residence of those people but if the percentage of the permanent residents is taken into consideration, the Bengalis preponderate there.

Next, I come to the Singbhum District. There also in the Sadar Subdivision, the Bengali-speaking population is in a minority. Perhaps, we have not a reasonable claim there, but as regards Dhalbhum which is close to Midnapore and Manbhum, the languages spoken are Bengali, Hindustani, Oriya and aboriginese. Those who speak Oriya and aboriginese, also speak Bengali but not Hindustani as the other language. So, with regard to Dhalbhum, our claim is a very reasonable one and it should be included in Bengal.

As to Chota Nagpur, there are two States Serai Kela and Khairsol. In these two States, the languages spoken are Bengali, Hindustani and aboriginese. They are close to Dhalbhum and Birbhum. There also the same features do prevail. The aboriginals speak the same Bengali language.

Therefore, we have a claim to Purnea (Sadar and Kishanganj), to Jamtara, Dumka, to Pakur and to Rajmahal and to Dhalbhum. It seems there is no reason why they should have been taken out of Bengal and included in another province. It is neither good for us nor good for them.

Then, I come to the other boundary of Bengal, the eastern boundary which adjoins Assam. As to Assam, it may be said that those who are Assamese in the true sense and speak the "Assamia" language and those who speak the Bengali language are living in perfectly friendly relationship. The "Assamia" language is practically the Bengali language. So, from that standpoint alone, we may not be able to lay any claim to any portion of Assam. But if the Assamese want to exclude any portion, —as recently it appears there has been a movement there to exclude some portion from the province of Assam and to get it included in the province of Bengal,—in that case, to which particular portion can we lay a claim? Of course, as to Sylhet and the Kachar plains, there can be no question. These are Bengali-speaking districts. When I speak of Kachar, I speak of Kachar plains and not the hill tracts.

As to Upper Assam, excluding Bijni, Uttar Salmara and Dudhlai, the Bengali-speaking people remain in Goalpara district. In Barpeta thana in Kamrup, a big change has been effected. A very large portion of the population are emigrants—Moslem emigrants—from the district of Mymensingh. A very large number of Muhammadans has migrated from Bengal, particularly from Mymensingh, to Barpeta and they have taken settlement of lands there,—a fact which has given rise to problems of great intricacy. We have heard of the "Line System". It has its origin in this influx of Mymensingh people who have now become permanent residents of the Barpeta thana. If really Assam is

willing to part with Barpeta; it ought to be included within Bengal, because the Bengali-speaking population preponderate there.

Now, between the two valleys, namely, Lower Assam and Upper Assam, there are hill-tracts. The residents of these hill-tracts, of course, speak their own dialect. The hill-tracts are inhabited by the aborigenes. They have a culture of their own. Neither Upper Assam can claim them nor can Lower Assam claim them; but if any change is to be effected and if Assam agrees to it, they have more affinity with the people of Lower Assam with whom they have more dealings than with those of Upper Assam.

Sir, I have placed the figures, and as I said at the very beginning—all misapprehensions ought to be removed that there is any sort of indirect motive behind my resolution. My resolution is based on the basic principle that one particular race speaking the same language, a race using the same language as the vehicle for the exchange of their ideas should not be placed under different administrations. It is injurious both to the parent race which is under one administration and also to those who are separated from that administration and are placed under another administration.

With these remarks, Sir, I commend my resolution to the acceptance of the House.

Mr. PRESIDENT: Resolution moved: That this Council is of opinion that this Government should move the authorities concerned for obtaining an Order in Council under the provisions of section 290 of the Government of India Act, 1935, for altering the boundaries of the Province of Bengal on the basis of linguistic affinities and the reunion of all Bengali-speaking areas in the Province of Bengal.

Mr. KADER BAKSH: Sir, we have no suspicion about the object underlying this resolution in view of the assurance given by the hon'ble member who moved the resolution just now. We have no doubt about his intention, but in spite of the assurance that he has given, we have to look at it from a practical point of view.

Sir, he began with the district of Purnea which borders on the district of Dinajpur, in North Bengal. I, Sir, know something of the district of Purnea for I had been there for a period extending over 25 years, if not more. From my very boyhood, I had been in the district of Purnea, specially in the Kisanganje Subdivision where the honourable mover has said Kisanganjia or Siripuria language is spoken. That it is not so I can assure him from my personal experience and knowledge derived from the fact that I have still to live in that subdivision for a period of three months in the year to look after my properties there. I

have opened several schools there and I have got my relations many of whom live in the Subdivision of Kisanganj and also in the Sadar Subdivision. I can tell you this much that the language which they speak in Kisanganje thana is absolutely Latin and Greek to me, but only in some parts of the Purnea district, the language is somewhat akin to Bengali. There are now only a few people living on the banks of the river Nagar which separates Dinajpur from Purnea where people speak a dialect which is akin to Bengali, but that is hardly to be understood by people who live in 24-Parganas or in the Presidency Division or in some other Divisions of the Province. Only the people of Dinajpur can understand that language. I can speak that language myself. I had to learn it.

Then again, my learned friend has said that the population there consists of *Rajbangshis* and Muhammadans. That the *Rajbangshis* have embraced Islam is not at all a fact. I have never heard of any *Rajbangshi* having embraced Islam at least during the course of my 25 years stay there.

Sir, there are many Bengalees living in Agra, Chunar and Delhi. Is it my honourable friend's argument that these people should be brought down here and all the areas where Bengalees live, for example, Benares where there are many Bengalees, should be brought under this Province, simply because the Linguistic Survey found that there were many Bengalees living there?

Now, Sir, the hon'ble member has spoken with regard to Singhbhum and Dhanbad. He has said that Dhanbad particularly is a place which should be included within Bengal simply on the ground that residents of Dhanbad are a Bengali-speaking race. He says again that people from other provinces who came to Dhanbad and made their residence there, speak Hindusthani. With regard to another district in Assam, namely, Barpeta, where the "Line System" has been introduced there are large numbers of immigrants from Mymensingh who have made their home there. It cannot be called a Bengali area or Bengali-speaking area; but if this area is sought to be so-called, then why should not Dhanbad where so many people from Bihar and other places have come, be called a Hindusthani-speaking area? I have not been able to follow the analogy which my honourable friend placed before the House. There would be practical difficulties in the way of adopting this principle. As for myself, I have no objection if some people are included within the province of Bengal and the area of the province be enlarged for it would be to the benefit of this province from the point of view of revenue. Perhaps from that point of view, I would like the idea, but there are innumerable difficulties standing in the way of bringing these people within the province of Bengal. There would also be great difficulty with regard to the communal question.

I had a discussion with the people who live just on the border of Dinajpur district on this question of repatriation to the province of Bengal but I found that they did not like to come under the administration of Bengal for there are several disadvantages. Now, Sir, while they are not willing to come within the province of Bengal, it would not be practical——

Mr. SHRISH CHANDRA CHAKRAVERTI: Is it because it is not a League area? (Laughter.)

Mr. KADER BAKSH: No question of whether it is a League area or not, arises.

There are several other difficulties. Although it is a very easy matter to induce them to live under the administration of Bengal, the hon'ble member has not moved the proper authorities for the inclusion of those areas. He has not said that he had consulted those people as to whether they were willing to come under the administration of Bengal. They may also refuse to come within the administration of Bengal (Mr. NARESH NATH MOOKERJEE: They want to live under a Congress administration!) No question of League or Congress administration. The Congress Government is no longer there. There would rather prefer to come under a League Government.

Now, Sir, without knowing the sentiments and the feelings of these people and without ascertaining the views of the people and also of their Governments, it would not be advisable at the present moment to make an attempt like this. Therefore, although I have every sympathy with the sentiment behind the resolution to include a large area within the province of Bengal, I cannot support the motion on the ground of practical difficulties——

Mr. PRESIDENT: So far as the opinion of other provinces is concerned, section 299 of the Government of India Act requires that the opinions of the Chambers of the Legislature of other provinces will also have to be consulted. It is only when the Chambers of the Legislature of other provinces agree, that such a motion can be accepted.

Mr. KADER BAKSH: While a move has been made here, no such move has been heard of in place. (Mr. SRISH CHANDRA CHAKRAVERTI: Start it now.) You start it but had there been any indication or expression of opinion on the part of the people living in those areas to come within the province of Bengal either here or elsewhere, then the question might have been relevant but uptil now there has been no indication of that, either by moving a resolution in the Legislature or even by ventilating it in the newspapers. So, I think it will be too premature to make a move like this now——

Mr. NARESH NATH MOOKERJEE: Assam has already made a move.

Mr. KADER BAKSH: As far as my knowledge goes, no such move has yet been made there. I know it fully well. People of the district of Purnea are definitely not willing to come within the administration of Bengal. So, on account of the practical difficulties and without ascertaining the sentiments and feelings of the people there, I think it is too premature to accept such a resolution and as such I am not in a position to support the motion of the hon'ble member, although I have got every sympathy with the sentiment behind the resolution.

Mr. PRESIDENT: Order, order. The Council stands adjourned till 2-15 p.m. on Monday, the 11th of December, 1939.

Adjournment.

The Council then adjourned till 2-15 p.m. on Monday, the 11th of December, 1939.

Members absent.

The following members were absent from the meeting held on the 8th of December, 1939:—

(1) Rai Bahadur Manmatha Nath Bose.
(2) Mr. Bankim Chandra Datta.
(3) Khan Bahadur Alhaj Khwaja Muhammad Esmail.
(4) Mr. Mohamed Hossain.
(5) Dr. Radha Kumud Mookerji.
(6) Rai Bahadur Satis Chandra Mukherji.
(7) Mr. E. C. Ormond.
(8) Mr. W. F. Scott-Kerr.
(9) Rai Sahib Jatindra Mohan Sen.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Monday, the 11th December, 1939, at 2-15 p.m. being the eighth day of the Third Session, pursuant to section 62 (2) (a) of the Government of India Act, 1939.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Educational broadcasts for the villagers.

58. Mr. NUR AHMED: (a) Will the Hon'ble Minister in charge of the Publicity Department be pleased to state what steps he has taken to introduce a scheme of educational broadcasts for the villagers of Bengal with a view to their cultural and social advancement? If not, why not?

(b) Is it a fact that in some other provinces, e.g., the United Provinces, such scheme of broadcasts by radio has already been established?

(c) If so, does the Government of Bengal propose to introduce a similar scheme or some other scheme for the education of villagers by radio? If not, why not?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Hon'ble Mr. A. K. Fazlul Huq): (a) A scheme of rural broadcasting has been tried in the district of Midnapore.

(b) No official information.

(c) The matter is under consideration of Government now.

The Bengal Civil Service Examination.

59. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister in charge of the Home Department kindly lay on the table a statement showing—

(a) the number of Hindu and Moslem candidates who sat for the Bengal Civil Service Examination during each of the last 5 years including the current year;

(*b*) the number of candidates of each community who secured minimum pass marks in each of those 5 years; and

(*c*) the number of appointments made from each community each year?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): A statement showing the details asked for is placed in the Library.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Has the attention of the Hon'ble Minister been drawn to the fact that the percentage of candidates getting the minimum marks has been decreasing steadily? It was 80 per cent. in 1936, 80 per cent. in 1937, 68 per cent. in 1938 and 54 per cent. in 1939. Is any reason forthcoming for this steady decrease in the percentage of candidates securing minimum marks?

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, as far as last year was concerned, the result was fairly satisfactory. It is only this year that the percentage has gone down. As far as I can see, there is no apparent explanation except that perhaps we are not getting as good candidates as before.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: It appears that Muslim education has on the whole been advancing. From the Government reports, we find that the percentage of passes in 1936 among Muslim candidates was 75 per cent., in 1937 it was 72 per cent., in 1938 it was 57 per cent. and this year it is only 36 per cent. Can any reason be assigned for this anomaly?

The Hon'ble Khwaja Sir NAZIMUDDIN: It is because a very large number of appointments is being made compared to the number of candidates who appeared before. The number of appointments is very much larger.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: I am enquiring about minimum marks. Why has there been such a sudden and abrupt fall from 75 to 36 per cent. when we find that Muslim education is advancing?

The Hon'ble Khwaja Sir NAZIMUDDIN: I do not know. In a particular year it may be that the batch of candidates was not up to the mark.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister kindly have an enquiry made into the causes of this sudden fall?

The Hon'ble Khwaja Sir NAZIMUDDIN: I do not think you can go by only one year's result.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: I find it is steadily decreasing from year to year. The percentage of passes was 75 in 1936, 72 in 1936, 57 in 1938 and 36 in 1939.

The Hon'ble Khwaja Sir NAZIMUDDIN: The percentages have not been worked out and it is very difficult to answer till that question is examined properly.

Appointments in the Settlement Departments.

60. Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister in charge of the Revenue Department kindly lay on the table a statement showing separately the number of gazetted officers, kanungoes, clerks, draftsmen and *muharrirs* on fixed pay, clerks and *muharrirs* on contract pay, peons and orderlies and *amins* and surveyors now employed in each settlement, including land revenue and petty settlements and the number of Moslems in each class?

The Hon'ble Maharaja SRISH CHANDRA NANDY, of Cossimbazar (on behalf of the Hon'ble Minister in charge of the Revenue Department): A statement is laid on the table.

Statement referred to in the reply to question No. 60 showing the total number of officers and staff and the number of Moslems in different settlements.

Class of posts.	Dinajpur-Rangpur settlement.		Howrah settlement.		Mymensingh settlement.		Land Revenue settlements.		Grand Total.	
	Total number.	Number of Moslems.	Total number.	Number of Moslems.	Total number.	Number of Moslems.	Total number.	Number of Moslems.	Total number.	Number of Moslems.
(1) Gazetted Officers ..	4	2	3	1	5	1	4	..	17	4
(2) Kanungoes ..	14	3	1	..	21	3	13	3	49	9
(3) Clerks on fixed pay	25	9	5	1	21	5	32	7	83	22
(4) Draftsmen on fixed pay.	57	13	..	..	1	..	8	2	66	15
(5) *Muharrirs* on fixed pay.	114	42	19	6	38	9	16	4	187	61
(6) Clerks and *Muharrirs* on contract pay.	113	27	4	2	..	..	8	2	125	31
(7) Peons and orderlies ..	106	49	27	8	244	149	55	17	432	223
(8) *Amins* and surveyors on fixed pay.	..	..	..	..	94	72	9	6	103	78
(9) *Amins* and surveyors on contract pay.	..	..	..	..	..	..	46	28	46	28
Total ..	433	145	59	18	425	239	191	69	1,108	471

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister be pleased to say why in spite of the Government resolution that at least 33 per cent. of the Government posts should be held by Muhammadans, less than 36 per cent. was held by Muhammadans in the Settlement Department in the ranks of Gazetted officers, kanungoes, clerks, draftsmen as well as *muharrirs* on fixed pay?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Because these appointments were made from time to time before Government came to the present communal ratio decision.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: I am not speaking of the fifty-fifty ratio but about the former ratio of 33 per cent. I say that even 33 per cent. is not maintained.

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: That may be so.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister kindly make an enquiry why the Government order was not followed?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: I shall bring it to the notice of the department concerned.

Leper Home in the district of Midnapore.

61. Rai Bahadur MANMATHA NATH BOSE: Will the Hon'ble Minister in charge of the Public Health and Medical Department be pleased to state if he has come to any decision regarding my question No. 129 (*h*) (*i.e.*, for a free gift of a portion of the 740 acres of land acquired by Government in Salbani police-station, near Chandrakona railway station, in the district of Midnapore, and a small recurring grant of Rs. 7,000 only for a District Leper Home pending the establishment of a Provincial Leper Home by Government) which he took time to consider on the 11th July, 1939, and about which he gave assurance that "Every effort was being made to expedite a decision"? If so, what is it?

MINISTER in charge of the PUBLIC HEALTH and MEDICAL DEPARTMENT (the Hon'ble Mr. Tamizuddin Khan): Government has decided to transfer to the District Board of Midnapore, for the purpose of the proposed District Leper Home, an area of 200 acres out of

the land mentioned by the hon'ble member as well as the tube-well sunk by Government on the site, subject to certain conditions. The transfer will be made as soon as the formal consent of the Mission to lepers in India, which has been asked for, has been received.

Mr. NARESH NATH MOOKERJEE: Sir, before you pass on to the next item of business, may I submit that in future statements should be printed along with the answers, because statements laid on the table are not generally available to the members. When the statements are short, it would be convenient for us if these are printed along with the answers, as in some cases they are.

Mr. PRESIDENT: There are certain rules in this respect. I shall see that they are complied with.

Laying of the Bengal General Clauses (Amendment) Bill, 1939, on the Table.

SECRETARY to the COUNCIL (Mr. K. N. Majumdar): Sir, I have received the following message from the Secretary to the Bengal Legislative Assembly in conformity with the requirements of rule 68 of the Bengal Legislative Assembly Procedure Rules:—

"I am directed to send herewith one signed copy of the Bengal General Clauses (Amendment) Bill, 1939, as passed by the Assembly on the 5th December, 1939, together with 150 spare copies of the Bill and to state that the Bill was not referred to a Select Committee of the Assembly before it was passed.

Secondly, I have further to state that the Bengal General Clauses (Amendment) Bill, 1939, was sponsored by the Hon'ble Nawab Musharruff Hossain, Khan Bahadur. A copy of the Statement of Objects and Reasons is enclosed."

Sir, I beg to lay on the table the Bengal General Clauses (Amendment) Bill, 1939.

Supplementary Estimate of Expenditure.

The Hon'ble Mr. NALINI RANJAN SARKER: Sir, under section 81 of the Government of India Act, 1935, I beg to present the supplementary estimate of expenditure that will be necessary during the current financial year.

Mr. PRESIDENT: Order, order. Government Bills will now be taken up for consideration.

GOVERNMENT BILLS.

The Bengal Shops and Establishments Bill, 1939.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, may I move the motion which stands in the name of the Hon'ble Mr. Suhrawardy, as he is absent to-day owing to illness? Sir, in this connection, may I refer you to rule 54? The proviso to that rule runs thus—

Mr. PRESIDENT: It has to be moved by the member-in-charge of the Bill.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, the proviso says that "provided that the President, in his discretion, may allow another member to move such motion or may postpone it."

Mr. RANAJIT PAL CHOUDHURI: It says "another member",—is a Minister a member here?

Mr. PRESIDENT: Under the rules, in the case of the absence of the member-in-charge of the Bill, it can be moved by any other member acting on behalf of the Government. So, Sir Nazimuddin is entitled to move it.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I beg to move that the Bill be referred to a Select Committee consisting of—

(1) Khan Bahadur Ataur Rahman,
(2) Khan Sahib Subidali Molla,
(3) Mr. Mohammad Hossain,
(4) Mr. Krishna Chandra Roy Chowdhury,
(5) Maulana Muhammad Akram Khan,
(6) Mr. Naresh Nath Mookerjee,
(7) Mr. Kamini Kumar Dutta,
(8) Mr. Humayun Kabir,
(9) Mr. W. B. G. Laidlaw,
(10) Raja Bhupendra Narayan Sinha Bahadur, and
(11) the mover,

with instructions to submit their report by the 28th February, 1940, and that the number of members whose presence shall be necessary to constitute a quorum shall be five.

Mr. HUMAYUN KABIR: Who will be the mover?

The Hon'ble Khwaja Sir NAZIMUDDIN: The mover will be the Hon'ble Mr. Suhrawardy, I think.

Mr. PRESIDENT: The mover will be Sir Nazimuddin who moves it.

The Hon'ble Khwaja Sir NAZIMUDDIN: In that case, Sir, with your permission will you allow somebody else to add the name of the Hon'ble Mr. H. S. Suhrawardy to the personnel of the Select Committee?

Mr. HUMAYUN KABIR: Sir, may I move that the name of the Hon'ble Mr. H. S. Suhrawardy be added to the personnel of the Select Committee?

Mr. PRESIDENT: It cannot be added because already eleven names have been proposed. You may substitute his name for one of the names already in the list.

Mr. HUMAYUN KABIR: Sir, may I move that in place of the word "mover", the words "the Hon'ble Mr. H. S. Suhrawardy" be substituted?

Mr. PRESIDENT: Under rule 56 of the Bengal Legislative Council Procedure Rules, the Minister in charge of the Department must be a member of the Select Committee. So, his name must be there. Instead of the words "the mover", the words "the Hon'ble Mr. H. S. Suhrawardy" may be substituted.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, it is very unfortunate that Mr. Suhrawardy has not been able to be present here to-day. He has been laid up suddenly with fever since yesterday, and I had to take this up at a very short notice. But there is one thing I feel, Sir, and that is that all along for the past two or three years, I have felt within myself the necessity for this Bill and to a certain extent I have taken some initiative in assisting Mr. Suhrawardy at least to bring it before this House, though it cannot be denied that it was Mr. Humayun Kabir's Bill which made the thing come up much earlier than it would otherwise have been in the normal course. Therefore, we are also grateful to Mr. Humayun Kabir for bringing his Bill in this House.

I feel, Sir, that this Bill is so very important from the point of view of those who are going to be affected by it that no lengthy speech is necessary on my part for referring this Bill to the Select Committee. The members of this House know what hours these people have got to keep. I know of shops—big shops, not petty ones—owned by people

who, I believe, do extensive business. Ninety per cent. of the import trade from Japan is done by them and the hours kept in those places are from 8 in the morning till 12 o'clock at night; and it is shocking how day in and day out, perhaps with 2, 3 or 4 days' leave in a year, except on the occasion of some kind of religious festivals, these shops are kept open from 8 in the morning till 8 o'clock at night and sometimes as late as 11 or 12 o'clock at night. Therefore, the sooner we tackle this problem and deal with it, the better. It may be argued that this Bill ought to be re-circulated for eliciting public opinion. But I feel that in view of the fact that Mr. Humayun Kabir's Bill has already been circulated and that this Bill differs from Mr. Humayun Kabir's Bill only in one or two respects, there is no necessity for sending it for circulation; it will only cause delay. On the other hand the Government have deliberately given a long date for submission of the report of the Select Committee, namely, 28th February, 1940, because they are going to publish the Bill again and call for opinions from interested parties. They intend to place those opinions before the Select Committee when they consider the Bill. As regards the new features that have been introduced in this Bill and the interests that are affected, all those classes will have a chance of representing their case before the Government and through the Government before the Select Committee. Therefore, I hope the members of this House will accept my motion and refer the Bill to the Select Committee.

Mr. PRESIDENT: Motion moved: That the Bengal Shops and Establishments Bill, 1939, be referred to a Select Committee consisting of—

(1) Khan Bahadur Ataur Rahman,
(2) Khan Sahib Subidali Molla,
(3) Mr. Mohammad Hossain,
(4) Mr. Krishna Chandra Roy Chowdhury,
(5) Maulana Muhammad Akram Khan,
(6) Mr. Naresh Nath Mookerjee,
(7) Mr. Kamini Kumar Dutta,
(8) Mr. Humayun Kabir,
(9) Mr. W. B. G. Laidlaw,
(10) Raja Bhupendra Narayan Sinha Bahadur, and
(11) the Hon'ble Mr. H. S. Suhrawardy,

with instructions to submit their report by the 28th February, 1940, and that the number of members whose presence shall be necessary to constitute a quorum shall be five.

Mr. NARESH NATH MOOKERJEE: Will I be in order, Sir, if I move my amendment?

Mr. PRESIDENT: For circulation?

Mr. NARESH NATH MOOKERJEE: Yes, Sir.

Mr. PRESIDENT: Then you will be in order.

Mr. NARESH NATH MOOKERJEE: Sir, it is not my intention to delay the passage of this Bill, in fact——

Mr. PRESIDENT: First, read out the amendment, please.

Mr. NARESH NATH MOOKERJEE: Sir, I beg to move that the Bengal Shops and Establishments Bill, 1939, be circulated for the purpose of eliciting opinion thereon by the 31st January, 1940.

It is not our intention, Sir, to delay the passage of the Bill. In fact, we are in sympathy with the principle as well as most of the clauses of this Bill. But we feel, Sir, that this Bill is more far-reaching in character than the one sponsored by Prof. Humayun Kabir, inasmuch as it tries to include within its purview commercial establishments of all kinds. Sir, I feel that this is really a new Bill, a new measure; and I think we should take the opinion of those whom this Bill is likely to affect. I suggest a very short circulation, as you will see from the date given, namely, 31st January, 1940. I do hope that the Government and my friends here will not oppose my amendment, and I think we shall profit by the opinion that may be sent up to us by the various commercial interests. It may be possible then in the Select Committee to devise ways and means to change those clauses that are likely to prove a hardship and to make things extremely difficult for the commercial community. While it is true, as the Hon'ble Sir Nazimuddin has said, that some of these shopkeepers do penalise their assistants very much, and that the hours of attendance that they enforce upon their assistants are extremely hard, in the case of the big commercial houses, I do not think there is one single instance where the assistants are made to work for more than 7 hours a day. But, whatever that may be, I do feel that if instead of rushing it through in this fashion the House accepts my motion for circulation, it will help us in improving the Bill. I do hope that my friends in this House will support me as this is entirely a non-party measure.

Mr. PRESIDENT: Amendment moved: That the Bengal Shops and Establishments Bill, 1939, be circulated for the purpose of eliciting opinion thereon by the 31st January, 1940.

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I support my hon'ble friend Mr. Naresh Nath Mookerjee, and in doing so, I would say that the Bill tries to bring about some changes in the law and regulate the shopping trade in this Province. Before the Bill is passed into law, the interests that would be affected must be consulted and their opinions must be before the Select Committee, so that there may be a full discussion of the whole case of the shop-owners and the general public. This is the first time that the shopping trade is going to be regulated in this manner and it is but meet and proper that the Bill should be circulated for eliciting public opinion thereon. With these words, Sir, I support the motion moved by my friend, Mr. Naresh Nath Mookerjee.

Mr. PRESIDENT: You have given notice of another amendment.

Rai SURENDRA NARAYAN SINHA Bahadur: I am not moving that amendment.

Mr. PRESIDENT: The House will now consider the motion for circulation.

Rai KESHAB CHANDRA BANERJEE Bahadur: Sir, I was at first inclined to support the motion for circulation of the Bill. But on hearing the Hon'ble the Home Minister, I think there is no special necessity for circulating the Bill at this stage. Sufficient time has been given (till the 28th February next) for the Select Committee to consider the provisions of the Bill. If they so desire, they can circulate the Bill for eliciting public opinion thereon and the opinions received may then be placed before the Select Committee for their consideration. I do not think the Bill is flawless, for opinions are bound to be divided on a Bill of this nature. There are some who think that some sort of relief should be given to the shop assistants while others are of the opinion that the Bill is unnecessary and should not be proceeded with. For instance, the closing of the shops at 8 p.m. and the grant of 1½ days' holiday every week are matters on which all may not agree.

So far as the other provisions of the Bill are concerned, I do not think we need go into them now, because they are almost identical with those incorporated in the non-official bill sponsored by my friend Prof. Humayun Kabir. To my mind, it would be better for the Select Committee to invite public opinion, for a measure of this kind may ultimately affect the public if such restrictions as envisaged in the Bill are imposed regarding the hours of sale, holidays, the question of leave, etc. All these regulations may result in an increase of the price of commodities, as the shop-keepers will not pay the extra expense on these accounts from their own pockets. These are factors

which should be very carefully considered before the Bill is passed. Hence the necessity for consulting public opinion which the Select Committee is competent to do.

Mr. HUMAYUN KABIR: Sir, I am grateful to the Hon'ble Sir Nazimuddin for the very kind words he has used about me in connection with this Bill. I shall consider my labours more than justified if I have succeeded in prompting the Government to bring this Bill before this House a little earlier than they would otherwise have done. With regard to the motion which is under the consideration of the House, I will submit that there is no case for circulation at this stage. As the Hon'ble Sir Nazimuddin has pointed out, the Government Bill is very similar to the Bill which I had the honour of moving two years ago in this House. I think the Bill which I sponsored was moved on the 20th January, 1938, and since then there has been a lot of discussion on my Bill. The Government have not moved very much from the general principle which I embodied in that Bill. To some extent, its scope has been extended and I welcome that. The Government have included the commercial establishments in the present Bill. This, I think, is a definite improvement; but on the other hand, Sir, there were certain other provisions in the Bill which I had the honour to sponsor and which have been given up by the Government, I think, to the detriment of the Bill. However, these are matters of detail which could be thrashed out in the Select Committee, and I have every belief that in a measure like this which is a non-party measure and which one might almost say, a non-political measure, a measure concerned with the social well-being of the people, there will not be much difference of opinion between different sections of the House. There is good reason for believing in this, because when my Bill was originally moved in this House there was response to this Bill from all over India. We had reactions from bodies so very different in opinion as "The Statesman" of Calcutta and the Congress Working Committee, both of whom agreed that a Bill like this was necessary. In a leader in "The Statesman" in January, 1938, it was pointed out that my Bill was probably the first of its type: for the first time the condition of shop assistants had been made the subject of legislation in India, and that it was a legislation which was eminently necessary. The Congress Working Committee, or its Industrial Sub-Committee, in a resolution, dated the 15th May, 1938, also accepted generally the provisions of the Bill which I had at that time the honour of introducing. They asked the Bombay Government to take up the principle of this Bill and initiate a measure of a similar type in that province. Since then, Sir, Bombay has stolen a march over us and if I have any quarrel with the Government to-day, it is only on account of the fact that the Government have allowed themselves to sleep over this matter

for two years. The Hon'ble Sir Nazimuddin has himself admitted to-day that there is very little difference between the Bill which I had moved and the Bill which the Government have introduced to-day. If there was very little difference, what objection was there to the Government taking up this Bill at that earlier stage? Or, if the Government did not want to take it up themselves, why did they not allow me to proceed with the Bill at that time? If that had happened, Bengal might have claimed to be the first province in India to have a social legislation of this type. Therefore, if I have any quarrel with the Government to-day, it is only on account of the delay, the slowness and the procrastination which they have shown in dealing with a matter of this type but not in any other direction.

And, therefore, Sir, I feel it my duty to oppose any motion for circulation which might be moved at this stage, particularly for the reason which has been suggested by Sir Nazimuddin himself that this Bill was unofficially circulated. My Bill was circulated to most of the departments and most of the interests concerned, and not merely that. When the Bill was first sponsored, there was a great agitation in different parts of Calcutta and action was taken by certain organizations on the lines of this Bill. I think that many members of this House know that since this Bill was introduced last year, the practice of giving holidays on Sundays has already become almost an established practice in many trades in Calcutta. The practice of at least a half holiday on Sundays has become a practice in certain other trade interests in Calcutta. I submit that this Bill has been before the public for two years, and the public has expressed itself, and if I may say so, almost unanimously on the necessity of a measure like this. Therefore, Sir I would support the motion moved by the Hon'ble Sir Nazimuddin that the Bill be referred to a Select Committee and the Select Committee should report by the 28th February next year; so that we can expect that it will be placed on the Statute book before the end of the next financial year.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I have considered this Bill a bit carefully. There are certain difficulties which I feel bound to place before the House, so that they may be taken into consideration.

Mr. PRESIDENT: The present motion is not for consideration of the Bill. The main proposition is for its reference to a Select Committee. Of course, that will commit the House to the principle of the Bill but the amendment is for circulation.

Khan Bahadur NAZIRRUDDIN AHMAD: Sir, the difficulties that I feel lie rather on the border-line. (Laughter.) The Chair may consider whether they go to the very root of the matter or are

minor details. If they are only matters of detail, they can certainly be taken up by the Select Committee but if they are difficulties of a more fundamental nature, they cannot very well be cured in the Select Committee because, by accepting the motion for reference to the Select Committee, we will be committed to the principle of the Bill.

Now, Sir, the Bill has divided establishments into three classes, namely, (1) shops, (2) commercial establishments and (3) establishments for public entertainment or amusement.

With regard to a shop, the definition is extremely general, i.e., "any premises" where "sale of commodities or articles" takes place and then there is a formidable number of bewildering exceptions. To add to the uncertainties, these exceptions are again subject to modifications by the Government. I submit, Sir, that a definition in a general way like this, with a large number of exceptions and counter-exceptions, would rather make the residue very vague and practically unascertainable. I would suggest that the definition should be by specific enumeration so as to make it clear and definite. We must not forget that there are penal clauses.

Then, Sir, there are other serious difficulties, namely, that power has been taken by Government to modify and change the provisions of the Act itself by means of notifications. This seems to me to be rather unusual. I believe that whenever an Act requires any change, the Legislature must be taken into confidence. I submit, Sir, that the acceptance of these provisions would amount to an encroachment on the legitimate functions of the Legislature. They would amount to a suppression of the Legislature and this is a proposition which can never be agreed to. I submit that such an attempt has been made here, namely, in the definition of the word "shop" in clause 2 (*9*). It is to the effect that "shop" "includes any establishment where sale of commodities or articles takes place and such other premises as the Provincial Government may by *notification* declare to be a shop",—and so forth. So, the definition of "shop" may be changed at will by Government. If this stood there alone, I would not have minded very much, but the wording of the next clause is more open to objection—I mean clause 3. In sub-clause (*1*) of clause 3, power has been taken to change any of the provisions of the Act by means of notification. This sub-clause lays down that "the Provincial Government may, for the purposes of all or any of the provisions of this Act, and with *such modification of any of those provisions* as it thinks fit, by *notification* declare" any premises to be a shop or a commercial establishment or an establishment for public entertainment or amusement. The most objectionable feature of the Bill, to my mind, is that important provisions of the Act may be changed so as to make the definition of these establishments fluctuate with the temper of the person who is in charge of the department for

the time being. Then, as if the meaning was not quite clear, in sub-clause (2), the meaning has been sought to be made clearer. Sub-clause (2) runs thus: "The provisions of this Act specified in a notification under sub-section (1), which *such modifications as may be specified* in the said *notification*, shall apply to any premises....." and so on. Thus, Sir, any of the provisions of the Act may be changed by notification. It would amount to an attempt to keep the Act up to date by the issue of departmental correction slips. It would be a bewildering business in all conscience.

These, Sir, are some of the difficulties, and I submit that the definition of "shop" and "establishment" should be by enumeration and not by a combination of generalisation and exceptions. The power of changing an Act by notification should be discouraged. This being an absolutely non-contentious measure calculated to make for the welfare of the people, there should be the least amount of abiguity and uncertainty in the Act. If definition by enumeration is not complete, there will be no harm. There is no urgency for completeness. We may begin by trying enumeration and if there are gaps, we can approach the Legislature to have the Act changed. In a legislation like this, we should proceed with caution. Certainty and simplicity should be our policy, and co-operation of the people concerned is essential for success. An impression of coercion would be fatal to success. We should proceed from experience to experience. I do not know, Sir, whether the points mentioned by me are the fundamental features of the Bill. I am very doubtful about it myself. If they are not, the Select Committee will do well to take note of all this and try to improve the Bill on the lines suggested.

Mr. PRESIDENT: The question before the House is: that the Bengal Shops and Establishments Bill, 1939, be circulated for the purpose of eliciting opinion thereon by the 31st January, 1940.

The Hon'ble Khwaja Sir NAZIMUDDIN: May I make my submission, Sir?

Mr. PRESIDENT: Yes, you may.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, all that I have got to say, as far as my friend Khan Bahadur Naziruddin Ahmad is concerned, is that in my opinion the fundamental principle behind this Bill is the restriction of shop hours of the employees. That is the fundamental principle. Issues, such as what class of shops is meant to be brought under the purview of this Bill or what should be the hours, are matters of detail which the Select Committee can decide; but the principle behind it is the idea to restrict the shop hours, so that the employees may not have to work beyond a certain length of time any day. Therefore, I hope my friend's objection has been met.

Now, as regards the motion for circulation. I have already stated, Sir, that what Government are going to do is to re-publish the Bill immediately and issue a communique calling upon all who are interested in the matter to send their opinions on this Bill at once. I am speaking subject to the approval of the Hon'ble Mr. Suhrawardy afterwards, because I have had no discussion with him on this point but I understand that these are his instructions. As regards the actual date of sending opinions, we shall call upon all to submit them by the 15th January, 1940, so that the Select Committee may meet immediately after that and may be able to consider the opinions that we have received since then. That will avoid the difficulty of coming to the Council again with a formal motion for Select Committee reference and it may be that we may not be able to get this Bill passed by the end of the Budget session, if I accept the circulation motion. On the other hand, the method which we have suggested will enable us at least to finish this Bill as far as this House is concerned before the next Budget Session is over, so that at the most by next July session, it can go through the Assembly and be in force by the end of August, 1940.

In view of what I have stated, I hope the hon'ble member will withdraw his motion for circulation.

Mr. PRESIDENT: The question before the House is: that the Bengal Shops and Establishments Bill, 1939, be referred to a Select Committee consisting of—

(1) Khan Bahadur Ataur Rahman,
(2) Khan Sahib Subidali Molla,
(3) Mr. Mohammad Hossain,
(4) Mr. Krishna Chandra Roy Chowdhury,
(5) Maulana Muhammad Akram Khan,
(6) Mr. Naresh Nath Mookerjee,
(7) Mr. Kamini Kumar Dutta,
(8) Mr. Humayun Kabir,
(9) Mr. W. B. G. Laidlaw,
(10) Raja Bhupendra Narayan Sinha Bahadur, and
(11) the Hon'ble Mr. H. S. Suhrawardy,

with instructions to submit their report by the 28th February, 1940, and that the number of members whose presence shall be necessary to constitute a quorum shall be five.

To this, an amendment has since been moved, namely, that the Bill be circulated for the purpose of eliciting opinion thereon by the 31st January, 1940.

The amendment was put and negatived.

Mr. PRESIDENT: The question before the House is that the Bengal Shops and Establishments Bill, 1939, be referred a Select Committee consisting of—

(1) Khan Bahadur Ataur Rahman,
(2) Khan Sahib Subidali Molla,
(3) Mr. Mohammad Hossain,
(4) Mr. Krishna Chandra Roy Chowdhury,
(5) Maulana Muhammad Akram Khan,
(6) Mr. Naresh Nath Mookerjee,
(7) Mr. Kamini Kumar Dutta,
(8) Mr. Humayun Kabir,
(9) Mr. W. B. G. Laidlaw,
(10) Raja Bhupendra Narayan Sinha Bahadur, and
(11) the Hon'ble Mr. H. S. Suhrawardy,

with instructions to submit their report by the 28th February, 1940, and that the number of members whose presence shall be necessary to constitute a quorum shall be five.

The motion was agreed to.

The Inland Steam Vessels (Bengal Amendment) Bill, 1939.

Mr. PRESIDENT: Sir Nazimuddin, will you move the next Bill on the agenda?

The Hon'ble Khwaja Sir NAZIMUDDIN: Yes, Sir. I beg to move that the Inland Steam Vessels (Bengal Amendment) Bill, 1939, be taken into consideration.

Sir, this is an entirely formal amendment to bring it into line with the British Merchant Shipping Act. At the present time, when an enquiry is held there is no means of defraying the expenses of the enquiry from those who are responsible for the accident, and Government have to bear the expenses entirely. What the Bill provides for is that if a Court thinks fit, it can realise by means of fines, money from the company responsible to defray the cost which Government had actually incurred. Therefore, Sir, the amendment is really following the practice which at present obtains in the case of sea-going vessels. A Court may make such order as it thinks fit respecting the costs of the investigation or any part thereof, and such order will be

enforced as an order under the Summary Jurisdiction Act as is done in the case of the British Merchant Shipping Act. This is the English Act, and we will be introducing the same principle in the case of the Inland Steam Vessels for application to Bengal.

Mr. PRESIDENT: Motion moved: that the Inland Steam Vessels (Bengal Amendment) Bill, 1939, be taken into consideration.

The question before the House is: that the Inland Steam Vessels (Bengal Amendment) Bill, 1939, be taken into consideration.

(The motion was agreed to.)

Clauses 1, 2 and 3.

Mr. PRESIDENT: The question before the House is that clauses 1, 2 and 3 stand part of the Bill.

(The motion was agreed to.)

Title and Preamble.

Mr. PRESIDENT: The question before the House is: that the title and preamble be added to the Bill.

(The motion was agreed to.)

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I beg to move that the Inland Steam Vessels (Bengal Amendment) Bill, 1939, as settled in the Council, be passed.

Mr. PRESIDENT: The question before the House is: that the Inland Steam Vessels (Bengal Amendment) Bill, 1939, as settled in the Council, be passed.

(The motion was agreed to.)

The Bengal Workmen's Protection (Amendment) Bill, 1939.

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Hon'ble Mr. H. S. Suhrawardy): Sir, I beg to move that the Bengal Workmen's Protection (Amendment) Bill, 1939, be taken into consideration.

Here again, a slight amendment is proposed to be made which is entirely in favour of workers. We are adding, first of all, to the classes of people who will be entitled to compensation. There is another amendment to clause 3 (*1*). In the old Act, the sub-section was applicable only to "whoever loiters at or near any place where a workman works," but the section as amended is applicable to "whoever loiters at or near

any place where a workman works or receives his wages, etc. etc." The place where he receives his wages is more important in my opinion than merely the place where he works. These are the two material changes proposed to be introduced in this Bill. Apart from these, there is nothing of very great importance.

Mr. PRESIDENT: Motion moved: that the Bengal Workmen's Protection (Amendment) Bill, 1939, be taken into consideration.

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I beg to move that the Bill be circulated for the purpose of eliciting opinion thereon by the 1st February, 1940. Important interests are likely to be effected and we could not possibly consider a measure like this without consulting them. With this object, I move my amendment for the purpose of circulating the Bill for eliciting public opinion thereon.

Mr. PRESIDENT: Amendment moved: that the Bill be circulated for the purpose of eliciting opinion thereon by the 1st February, 1940.

The Hon'ble Khwaja Sir NAZIMUDIN: Sir, I submit there is practically no reason advanced for circulating the Bill. It is a very slight amendment and it is in the interests of the workmen to give them greater protection so that they can keep the wages which they have rightly earned by their hard labour and there can be no two opinions on that point. The circulation will merely delay the whole thing. I suggest that in view of what I have said the honourable member should withdraw his amendment and if he refuses, the House should oppose it.

Mr. PRESIDENT: The question before the House is: that the Bill be circulated for the purpose of eliciting opinion thereon by the the 1st February, 1940.

(The motion was negatived)

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I beg to move that the Bill be referred to a Select Committee consisting of—

(1) the Hon'ble Mr. H. S. Suhrawardy, Minister in charge of the Commerce and Labour Departments,

(2) Raja Bhupendra Narayan Sinha Bahadur,

(3) Mr. Nagendra Narayan Roy,

(4) Mr. Ranajit Pal Chowdhury,

(5) Mr. Humayun Kabir,

(6) Mr. H. C. A. Hunter,

(7) Mr. W. B. G. Laidlaw,
(8) Khan Sahib Subidali Molla,
(9) Mr. Kader Baksh,
(10) Mr. Krishna Chandra Roy Chowdhury, and
(11) the mover,

with instructions to submit their report by the end of March, 1940, and that the number of members whose presence shall be necessary to constitute a quorum shall be five.

Mr. PRESIDENT: Amendment moved: that the Bill be referred to a Select Committee consisting of—

(1) the Hon'ble Mr. H. S. Suhrawardy, Minister in charge of the Commerce and Labour Departments,
(2) Raja Bhupendra Narayan Sinha Bahadur,
(3) Mr. Nagendra Narayan Roy,
(4) Mr. Ranajit Pal Chowdhury,
(5) Mr. Humayun Kabir,
(6) Mr. H. C. A. Hunter,
(7) Mr. W. B. G. Laidlaw,
(8) Khan Sahib Subidali Molla,
(9) Mr. Kader Baksh,
(10) Mr. Krishna Chandra Roy Chowdhury, and
(11) the mover,

with instructions to submit their report by the end of March, 1940, and that the number of members whose presence shall be necessary to constitute a quorum shall be five.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I beg to oppose this motion. I think there is no justification for referring the Bill to a Select Committee. The Bill is a very simple one and I believe there is not much difference of opinion on the Bill itself. So, I think we can take it into consideration just now and pass it here and now instead of referring it to a Select Committee.

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I beg to withdraw my amendment.

Mr. PRESIDENT: Is it the pleasure of the House to allow the hon'ble member to withdraw his amendment?

(No objection being raised, the amendment was, by leave of the House, withdrawn.)

Mr. PRESIDENT: The question before the House is: that the Bengal Workmen's Protection (Amendment) Bill, 1939, be taken into consideration.

(The motion was agreed to.)

Clauses 1 and 2.

Mr. PRESIDENT: The question before the House is that clauses 1 and 2 stand part of the Bill.

(The motion was agreed to.)

Clause 3.

Mr. PRESIDENT: Clause 3 stand part of the Bill.

Mr. NUR AHMED: Sir, I beg to move that in clause 3 of the Bill, in sub-section (*1*) of the proposed section 3, for the words "with fine" appearing in line 7, the words "with a fine which may extend to two hundred and fifty rupees" be substituted.

Sir, this is a very simple amendment and I hope it will be accepted. The original clause runs thus:—

"Whoever loiters at or near any place where a workman works or receives his wages in a manner or in circumstances indicating that he is so loitering with a view to recover any debt from such workman shall be punished with imprisonment which may extend to six months or with fine or with both."

No mention of the amount of fine is made here and so I beg to move a simple amendment. I would request the House to accept it.

Mr. PRESIDENT: Amendment moved: that in clause 3 of the Bill, in sub-section (*1*) of the proposed section 3, for the words "with fine" appearing in line 7, the words "with a fine which may extend to two hundred and fifty rupees" be substituted.

Mr. HUMAYUN KABIR: Sir, I would like to support this amendment of Mr. Nur Ahmed. This is a very harmless amendment and I think the Government will accept it as such. It is but proper that workmen should be safeguarded in this way and at the same time if the amount of fine is left indefinite, it may in certain cases entail undue hardship upon the person who might be loitering there. With a view to obviate that, Mr. Nur Ahmed has moved his amendment that

the fine need not be more than Rs. 250 and I think that it is a sufficiently deterrent sentence. It would have been better if the Government had made a distinction between those who would be punished for the first time for the first offence and those who would repeat the offence after having been punished once. If a deterrent sentence were imposed upon the latter, it would probably have improved the Bill. With these words, I support the amendment moved by Mr. Nur Ahmed.

The Hon'ble Khwaja Sir NAZIMUDDIN: Government will not oppose this amendment. They are prepared to accept the amendment restricting the fine up to a maximum of Rs. 250.

Mr. PRESIDENT: The question before the House is that in clause 3 of the Bill, in sub-section (*1*) of the proposed section 3, for the words "with fine" appearing in line 7, the words "with fine which may extend to two hundred and fifty rupees" be substituted.

(The motion was agreed to.)

Mr. NUR AHMED: Sir, I beg to move that in clause 3 of the Bill, in paragraph (*c*) of the Explanation to the proposed section 3, after the word "tramway", the words "motor or bus" be inserted.

This is I think a most important amendment. The Explanation runs thus:—

"The expression 'public utility service' in this section means—

(*a*) any railway service; or

(*b*) any water transport service; or

(*c*) any tramway service; or

(*d*) any postal, telegraph or telephone service; or

(*e*) any system of public conservancy or sanitation; or

(*f*) any industry, business or undertaking which supplies power, light or water to the public, or which the Provincial Government may, by notification in the 'Official Gazette,' declare to be a public utility service for the purposes of this Act."

Here in the Explanation, even the tramway service has been included but motor and bus services have been excluded. I want to include them so that the benefit may extend to these services also. They are in the same position as the tramway conductors. Why should they be excluded? I don't find any reason for their exclusion. So, I appeal to the House to accept this simple amendment and extend the benefit to the motor and bus drivers whose number is very large throughout the country.

Mr. PRESIDENT: Amendment moved: that in clause 3 of the Bill, in paragraph (c) of the Explanation to the proposed section 3, after the word "tramway", the words "motor or bus" be inserted.

Mr. HUMAYUN KABIR: Sir, I beg to support the amendment moved by Mr. Nur Ahmed.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I think that it cannot be motor or bus. It must be motor bus. If you allow the mover of the amendment to modify his amendment as I have suggested, Government will have no objection to accept it.

Mr. NUR AHMED: I accept the suggestion of the Hon'ble Minister. In the original amendment I sent in, the words used were "motor bus".

Mr. HUMAYUN KABIR: Sir, may I move a further short-notice amendment that for the words "motor bus" the words "motor bus or motor car service" be substituted. There may be certain cases where the running services organised are motor cars. I think that the Government will have no objection to including the workers in such services also.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, instead of "motor car or motor bus service", I suggest that it may be "motor service".

Mr. PRESIDENT: I think if it is changed to motor service by the original mover, I shall accept it.

Mr. NUR AHMED: I accept the words suggested, viz., "motor service".

Mr. PRESIDENT: The question before the House is that in clause 3 of the Bill, in paragraph (c) of the Explanation to the proposed section 3, after the word "tramway", the words "motor service" be inserted.

(The motion was agreed to.)

The Hon'ble Khwaja Sir NAZIMUDDIN: I beg to move that clause 3 as amended stand part of the Bill.

Mr. PRESIDENT: The question before the House is that clause 3 as amended stand part of the Bill.

(The motion was agreed to.)

Mr. PRESIDENT: The question before the House is that the title and preamble stand part of the Bill.

(The motion was agreed to.)

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I beg to move that the Bill, as settled in the Council, be passed.

Mr. PRESIDENT: Motion moved: that the Bill, as settled in the Council, be passed.

The question before the House is that the Bill, as settled in the Council, be passed.

(The motion was agreed to.)

Bengal General Clauses (Amendment) Bill, 1939.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I beg to request you to waive the usual period of notice under rule 77 (*1*) of the Bengal Legislative Council Procedure Rules and to permit me to move the motion on the 14th instant. The motion stands thus—that the Bengal General Clauses (Amendment) Bill, 1939, as passed by the Bengal Legislative Assembly, be taken into consideration.

Mr. PRESIDENT: May I take it that there is no objection?

(Cries of "no objection".)

Mr. PRESIDENT: The rule is suspended and the Hon'ble Minister is permitted to move it on the 14th instant.

(After a pause.)

Order, order.

The House will now proceed with the discussion, clause by clause, of the Bengal Money-lenders Bill, 1939.

The Bengal Money-lenders Bill, 1939.

Mr. PRESIDENT: Clause 2 stand part of the Bill.

Point of Order.

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I rise on a point of order. The other day when the Bill was first moved for consideration, I raised a point of order questioning the competency of this

Council to deal with the Bill as several of its provisions tended to encroach on the Federal List. You were pleased to rule at that time that points of order might be raised when these different provisions were under discussion.

But my point to-day is that the several *ultra vires* clauses are not isolated matters which can be extricated from the rest of the provisions and dealt with separately from the point of view of competence of this House, but on the other hand they run through and through the whole texture of this Bill. In such cases, the entire Bill has been considered to be *ultra vires*. So, my point of order to-day is that unless the whole Bill is recast so as to exclude all Federal subjects which I indicated the other day, the whole Bill is beyond the power of this House.

In this connection, I would like to add that the provisions of this Bill are hit by items Nos. 28, 33, 38—

Khan Bahadur ATAUR RAHMAN: On a point of information, Sir. Unfortunately, we have not been able to follow what the hon'ble member has read out.

Mr. PRESIDENT: I would request the hon'ble member to pay more attention in future. At the same time, Rai Surendra Narayan Sinha Bahadur may repeat his main points.

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I shall try to read out more loudly.

Khan Bahadur ATAUR RAHMAN: Please give us a summary of your point of order.

Rai SURENDRA NARAYAN SINHA Bahadur: The summary of my point of order is that there are some matters in the Bill which are, in my opinion, federal subects, e.g., promissory notes, all banking corporations (without the scheduled banks), not excepting the Reserve Bank of India because it is not itself a scheduled bank. And there are other sections in the Bill which are hit by items Nos. 28, 33, 38, 42, 53 and 59 of the Federal List of the Constitution Act. Though money-lending business falls within the Provincial List, there are nevertheless federal subjects included in the Bill, as I have mentioned. The offences as set out in clause 23 which will be offences with respect to banking by Corporations also, so far they are not partly excepted as indicated above, they will thus be hit by item No. 42 of the Federal List. Then come licence fees in clause 10, which so far as they concern banking by corporations will be fees in respect of matters in the Federal List and will thus be hit by item No. 59 of the Federal List, and so on.

So, my point is that this House is not competent to consider all the sections of the Bill and the different sections being inextricably mixed up, the Bill ought to be recast and then reconsidered by this House.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, my friend has sprung a surprise. So far all the objections for the consideration of the Bill came from the Lower House and they were all discussed and dealt with. The Lower House sent this Bill after considering all the facts and circumstances. Now, Sir, on the very first day when the question as to whether the Bill should be considered at all or not was discussed in this House, all these points were raised——

Rai KESHAB CHANDRA BANERJEE Bahadur: On a point of order, Sir. Is the Hon'ble Minister entitled to refer to what had happened in the other House? We are concerned with the point of order raised by Rai Bahadur Surendra Narayan Sinha.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, can there be a point of order in the midst of a discussion of another point of order.

Mr. PRESIDENT: I would request the Hon'ble Minister to avoid reference to what had happened in the Lower House as much as possible.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: On the first day, my friend put before the House whatever objections he had against the consideration of the Bill and the House then practically unanimously decided that the Bill would be considered to-day. Now all on a sudden, he again says that it cannot be considered. Sir, my hon'ble friend has raised only two points. The first point he raised was about banking——

Mr. PRESIDENT: That is not the point at issue now. The little point that he has raised now is that the alleged offending clauses are so inseparable that it is difficult to extricate the particular clauses that are *ultra vires* and that as such the entire Bill should not be entertained. I have considered this matter myself. So, it is not necessary for the Hon'ble Minister to argue further. On reference to books of authority, I find that Wynes in his "Legislative and Executive Powers in Australia" has dealt with this question. At page 46 of his book, he says: "When an enactment of the Commonwealth or a State Parliament is found to contain provisions which are *ultra vires*, it does not follow that the whole Act is necessarily invalid, for where some only of such provisions offend, they may be severable from the rest. Or the Act, while in respect of subject-matter within the constitutional power, may purport to apply to persons or things beyond the power; in such a case it may be entirely valid as to some classes of case and bad as to others".

Later on, the same author remarks, "On the other hand, if the provisions are so mutually connected with and dependent on each other as conditions, considerations or compensations for each other, as to warrant the belief that the Legislature intended them as a whole, and if all could not be carried into effect the Legislature would not pass the residue independently, then if some parts are unconstitutional all the provisions which are thus dependent, conditional or connected must fall with them".

This is the principle that should be followed in deciding the question as to whether if a particular clause is *ultra vires*, the whole Bill should or should not be entertained. If the alleged offending clauses are so inseparable that they cannot be dealt with separately, then alone the objection raised by the hon'ble member will be pertinent .

I find the same point also dealt with in Cooley's Constitutional Limitations at page 246. The real point to be taken into consideration in this connection is whether they are essentially and inseparably connected in substance.

This question has also been discussed at considerable length by the Hon'ble Mr. Justice Sulaiman in Re: Shyamakant *versus* Rambhajan, reported in 2 Federal Law Journal at page 201.

So, the main question hinges on whether the particular clauses objected to, namely, those about banking or promissory notes, are so inseparable from other clauses in the present Bill that they cannot be separated. In that case, of course, the point raised would hold good. I would refer the hon'ble member to clause 2 (*13*) (*d*) (*i*) where banks are concerned. If the portion "by a bank which was a scheduled bank on the first day of January, 1939, or by a bank which has been declared to be a notified bank" is omitted, then the objection raised by the hon'ble member will be eliminated. In view of the fact that the matters, which the hon'ble member objected to as being beyond the jurisdiction of the provincial legislature, are separable from other matters dealt with in the Bill, I rule that the point is not well-taken.

Mr. NARESH NATH MOOKERJEE: Sir, may we then take it that the irrelevant portions are going to be excluded?

Mr. PRESIDENT: That is a matter for further consideration. At the present moment, I have to reply to the point raised by the hon'ble member that some of the clauses of the Bill, in his opinion, have offended against the Government of India Act and gone beyond the jurisdiction of the local Legislature. Now, as they are separable and can be treated in a different way, if it is ultimately held that the House has no jurisdiction over matters of banking and promissory notes, they can be left out,—that is all that I have held.

Rai Sahib INDU BHUSAN SARKAR: Sir, I beg to move that in sub-clause (*4*) of clause 2 of the Bill for the word "solely" in line 2, the word "mainly" be substituted.

The reason for my amendment is this. If this clause is allowed to remain as it is, with regard to commercial loan, it means a loan advanced to any person to be used by such person solely for the purposes of any business or concern relating to trade, etc. It will be a great hardship on the part of money-lenders if this clause is meant to apply to a loan advanced to any person to be used by such person solely for the purpose of any business, etc., etc. If one lends Rs. 1,000 and if a small portion of that amount is utilised for purposes other than those specified in the clause, it would be excluded from the purview of this clause. So, it will be a grat hardship on this part of the money-lender. I would like therefore to insert the word "mainly" in place of "solely". With these words, I commend my amendment to the acceptance of the House.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*4*) of the Bill, for the word "solely" in line 2, the word "mainly" be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose the amendment. This represents a compromise which has been effected after a good deal of trouble between the two parties. Both the lender and the borrower are influential people and they came to this compromise. After the compromise, if my friends want to raise the issue, I don't think it would be right and proper. So, I would ask my friend to remember the compromise and honour it.

Mr. NARESH NATH MOOKERJEE: On a point of information, Sir. May I ask the Hon'ble Minister whether the compromise was effected between Government and the European Group or between money-lenders and the borrowers?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: The compromise was between the lenders and the borrowers.

Mr. PRESIDENT: The question before the House is that in sub-clause (*4*) of clause 2 of the Bill, for the words "solely" in line 2, the word "mainly" be substituted.

(The amendment was negatived.)

Rai Sahib INDU BHUSAN SARKAR: Sir, I beg to move that in sub-clause (*4*) of clause 2 of the Bill, the "Explanation" be omitted.

The Explanation runs thus: "Notwithstanding anything contained in any agreement relating thereto, a loan shall not be deemed to be a commercial loan unless it is in substance a loan to be used solely for any of

the purposes referred to in this clause". If this explanation remains, the same difficulty would arise and it would be difficult for the money-lender to establish whether a loan or part of the loan which was originally taken as a commercial loan was subsequently used for purposes other than those mentioned in the clause. This difficulty would be there. So, I propose that the Explanation should be omitted.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*4*) of clause 2 of the Bill, the "Explanation" be omitted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose it on the ground that this "Explanation" is necessary. The House has already accepted the word "solely" as the basis of the loan. So long as the word "solely" is there, the "Explanation" cannot be omitted. If it is omitted, the decision that has been come to will be upset. Sir, we must stick to the decision we have come to.

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I do not propose to move the amendment standing in my name but I will support the amendment moved by my friend Rai Sahib Indu Bhusan Sarkar. In supporting it, Sir, I would like to say that the commercial loan has been very explicitly defined in the main body of this sub-clause. The explanation merely lays down that the money thus advanced will be used solely for the purpose or purposes indicated in the definition. There is again another condition laid down which is that it must in substance be a loan to be used solely for the purpose of business. This will merely complicate matters, the effect of which will be that many loans taken in the course of business may be declared to be not commercial loans. In such cases, the purpose of the Act will be defeated. It is best to leave the definition alone without the imposition of this condition. The law courts will interpret the definition liberally so as not to defeat the purpose of the Act and that is after all what we are trying to promote. On this ground, I support the amendment moved by my friend Rai Sahib Indu Bhusan Sarkar.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to oppose the amendment. It is said that the "Explanation" is redundant. I submit that the "Explanation" contains a very important element, viz., the point whether a loan is a commercial loan must be determined by the practical consideration whether it is in substance a loan to be used solely for any of the purposes referred to in this clause. This will do away with most of the technicalities and arguments. It makes the definition absolutely clear and free from any doubt.

Mr. PRESIDENT: The question before the House is: that in sub-clause (4) of clause 2 of the Bill, the "Explanation" be omitted.

(The amendment was negatived.)

Mr HUMAYUN KABIR: Sir, I beg to move that in sub-clause (4) of clause 2 of the Bill, in the Explanation, after the word "loan" in line 2, the words "of an amount less than rupees five thousand" be inserted.

Sir, if my amendment is accepted, the "Explanation" will read as follows:—

> "Notwithstanding anything contained in any agreement relating thereto, a loan of an amount less than Rs. 5,000 shall not be deemed to be a commercial loan unless it is in substance a loan to be used solely for any of the purposes referred to in this clause."

The purpose of my amendment is to make the Bill more effective. I take it that the main object of the Bill is to give relief to the poorer sections of the community, the poor debtors who have been oppressed by money-lenders. At the same time, I take it that it is not the intention of any member of this House that commercial credit should be restricted and that there should be any limitations placed on the development of trade and industry in the country. Now, Sir, as the "Explanation" stands, a loan will not be taken to be a commercial loan even if there be a statement to that effect in the agreement itself unless the lender can prove that the borrower has used the whole amount for commercial purposes alone; in other words, it is quite possible that a situation might arise where a particular man borrows money for commercial purposes and after taking the money from the lender, in order to defraud the creditor, he diverts a portion of it for some non-commercial purpose. Immediately such a transaction will come within the mischief of this "Explanation."

Now, with regard to loans which are for Rs. 5,000 or below, I accept the principle which has been laid down in the explanation, namely, that the onus of proving that it is a commercial loan shall be on the lender; in other words, it will be the borrowers who will get the relief. People who take loans of Rs. 5,000 or less are generally poor people who are not able to protect their own interests or look after the intricacies of law in a proper manner. Therefore, Sir, I accept the principle which is implied here. Even though a loan is stated to be a commercial loan, it need not be a commercial loan. In some cases, it may be that a creditor, merely to get out of this Act, will give loan to an agriculturist and yet try to pass it off under the colour of a commercial loan. Therefore, this explanation is necessary.

But I think that the case of those who take large loans, who take loans of Rs. 5,000 or more stands on a different footing. In the case of persons who have a credit of Rs. 5,000 or more in the market, we can assume *prima facie* that they are persons who can take care of themselves and their interest and who can and do take legal advice, if necessary. Therefore, Sir, in such cases, I think, the onus of proof that it is not a commercial loan should be on the borrower. In the case of a loan of Rs. 5,000 or less, whether it is a commercial loan or not, the onus of proof shall be on the lender, but in the case of loans of Rs. 5,000 or more, that is, in the case of larger transactions, the onus shall be on the borrower. A situation might develop easily when a person, who is well to do and who has to deal with Rs. 50,000 or a lakh of rupees on commercial transactions, may take a loan of, let us suppose, Rs. 1,25,000 for commercial purposes, and in the agreement it is stated that this loan of Rs. 1,25,000 is taken for commercial purposes. After that, he spends Rs. 3,000 or Rs. 5,000 out of that for some non-commercial purposes and takes care to see that there is evidence to show that this Rs. 3,000 or Rs. 5,000 has been spent on non-commercial purposes. As soon as that has been done and after he has spent Rs. 5,000 on a party which he gives to honourable members of this House (laughter), he goes before the Court and says that this is a non-commercial loan because it has not been solely used for commercial purposes. He says that he has spent Rs. 1,20,000 on industrial projects, but Rs. 5,000 he has used for giving a party to the members of this House and they are all witnesses that such an event has taken place. Immediately, he will get the protection of this Act. To meet such cases, my amendment should be accepted by this House. In the case of poor men, by all means give them protection as in most cases they cannot protect themselves. But in the case of those who deal with larger sums and in the case of those who are able to protect themselves, there is no reason why the State should take sides either on behalf of the lender or the borrower. I completely agree with the sponsors of the Bill that every possible protection should be given to the weaker side but where both are strong and both are equally able to defend themselves, there is no reason why the State should interfere in this manner.

Further, there is the risk that if the explanation remains in the present form, in the case of large transactions—transactions involving tens of thousands of rupees and even lakhs and crores of rupees, if there is the possibility that after money has changed hands in this way, the creditor might be defrauded, there is a strong probability that commercial credit will dry up. People may not be willing to advance money for commercial expansion and I think there is no member in this House who wants that money should not be provided for industrial

and commercial expansion of the country. For these reasons, I would ask the Hon'ble Minister to accept this amendment because it does not in any way go against the spirit of the Bill. It only makes it more clear. It gives protection where protection is necessary. There is no partiality; both sides are able to take care of themselves. People who have got a credit of Rs. 10,000 or more, can get and do take legal advice. In the case of larger transactions, this is always done. Therefore, I move that in the Explanation, after the word "loan", these words be inserted, namely, of an amount less than Rs. 5,000," so that the result would be that in the case of loans of Rs. 5,000 or less, the onus of proof will be on the lender and in the case of those of Rs. 5,000 or more, the onus of proof will be on the borrower.

Mr. PRESIDENT: Amendment moved: that in sub-clause (4) of clause 2 of the Bill, in the Explanation, after the word "loan" in line 2, the words "of an amount less than rupees five thousand" be inserted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose the motion on the ground that this sub-clause is the result of a compromise and I cannot go against the spirit of the Bill.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to oppose the amendment on merits. The amendment seems to be based on a misconception. My honourable friend thinks that if there is an intention to borrow a certain amount for commercial purposes, and if it is actually borrowed with that intention, subsequent expenditure of that amount for non-commercial purposes will vitiate it. I believe my friend's apprehensions are wrong. If an amount is borrowed for commercial purposes, it does not matter how the money is spent subsequently. If a man induces a credulous person to part with some money on the understanding that it will be spent for commercial purposes and then it is possible for him to spend a part of that amount for non-commercial purposes, if the law is like that, then it will lead to fraud. I beg to submit, Sir, that the whole thing depends on the original intention, and in view of that there is no need for any amendment like this. Besides, Sir, it is very difficult to distinguish as to who is rich and who is poor. It is not always the case that a man who has a borrowing capacity of Rs. 5,000 or less is a poor man and a man who has a borrowing capacity of above Rs. 5,000 is a rich man. In these circumstances, I beg to submit that the amendment is based on a misconception. The amendment is not at all necessary.

Mr. NUR AHMED: Sir, I oppose the amendment. My honourable friend has stated before the House the reason why he moved the

amendment. He said that commercial loans should remain undisturbed and that there should be no interference, so far as the commercial interests are concerned. He has also stated that if the Bill is amended in this way, the poorer section of the people, for whom the law is being enacted, will be benefited. I would warn the honourable member that on the contrary, the amendment will hit the poor instead of benefiting them. He says that if an agriculturist has got in his document a loan of not less than Rs. 5,000, then it is a commercial loan. The onus is on the poor to prove that what is stated in the registered document is not a fact. In that case, what will be the effect? I appeal to the honourable mover to consider the effect. I find that the definition of the term commercial loan has been made as wide as possible. I think this amendment will act prejudicially to the interests of the poorer section of the country. On this very ground, I oppose this amendment.

Khan Bahadur M. SHAMSUZZOHA: Sir, I beg to submit that if this restriction is put on the Explanation, then the whole object of the Bill will be frustrated, because it will mean that a money-lender will be required to prove that it is a commercial loan only when the amount will be less than Rs. 5,000 and not in other cases.

Mr. HAMIDUL HUQ CHOWDHURY: Sir, I think Khan Bahadur Naziruddin Ahmad's views are correct, because the question of onus will have to be proved. The Explanation has been so worded because the intention of the section is that at the time when a loan is advanced the money-lender shall see and make proper enquiries that the loan is being taken for bona-fide commercial purposes and that it is not being taken under the garb of a commercial purpose. The money-lender has not to prove, as is now being assumed, how the money was used by the borrower. If the borrower, at the time when he takes a loan, takes it honestly with a commercial purpose, as defined in sub-clause (*4*), and afterwards changes his mind and goes to the races and uses the money in order that he may get more profit thereby, then it will be outside the purview of this Act. The object is to be scrutinised at the initial stage. The lender must take all sorts of precautions so as to ensure that he does not lend money to a gambler or a wasteful person who is going, as he knows, to use the money for some purpose which is not a commercial purpose. Then he shall not lend, but after having believed—when there are circumstances to believe—that the loan is for a commercial purpose, if the borrower uses it otherwise then he is not hit by the Bill. He is free. The words are "loan to be used". The words "to be", Sir, are purposely used, because enquiry starts not when the money is going to be taken but long after the loan has been given. It is not the intention of the Bill to throw upon the lender the onus of proof as to the use of

the money. Generally, Sir, the lender has to prove that money has been used for something to the benefit of the minor if he transacts any business with his guardian on his behalf. That is quite different and is not contemplated here. I submit, Sir, that the words which Mr. Kabir wants to substitute are useless. As soon as a lender is satisfied that the money has been taken for a commercial purpose, and there are circumstances which afford a pretty safeguard against proving that the money, at the time when it was taken, was not taken for a commercial purpose, then he ought to lend and there is no danger involved in this so far as he is concerned, because he is to prove that only and nothing else. The subsequent intention on the part of the borrower to use the money otherwise will not affect him.

Mr. HUMAYUN KABIR: There should be the greatest scrutiny for that.

Mr. HAMIDUL HUQ CHOUDHURY: Yes by all means.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*4*) of clause 2 of the Bill, in the Explanation, after the word "loan" in line 2, the words "of an amount less than rupees five thousand" be inserted.

(The amendment was negatived.)

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I beg to move that in sub-clause (*4*) of clause 2 of the Bill, in the Explanation, for the words "in substance a loan to be used solely" in line 4, the words "a loan to be used substantially" be substituted.

Sir, the words "in substance" and "solely" seem to cut each other. The intention of the framer of the clause seems to be this, namely, that the loan should be used substantially for the purpose set out in the definition of commercial loans. So, I move that the Explanation be amended as indicated by this amendment.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*4*) of clause 2 of the Bill, in the Explanation, for the words "in substance a loan to be used solely" in line 4, the words "a loan to be used substantially" be substituted.

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: Sir, I beg to oppose this amendment on the ground that if this is passed, it will have the same effect as that of the previous amendment.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*4*) of clause 2 of the Bill, in the Explanation, for the words "in substance a loan to be used solely" in line 4, the words "a loan to be used substantially" be substituted.

(The motion was negatived.)

Mr. SHRISH CHANDRA CHAKRAVERTI: Sir, I beg to move that in the Explanation to sub-clause (*4*) of clause 2 of the Bill, after the word "loan" in line 4, the word "intended" be inserted.

The idea of putting in this word is this. It only amounts to a mere verbal alteration. Here the Explanation reads thus: that a loan shall not be deemed to be a commercial loan unless it is in substance a loan to be used solely for any of the purposes referred to in this clause. The use of the word "intended" will clarify matters. The debt will clearly express that the loan is intended to be used solely for the purpose of the business. Ordinarily, a lender can only satisfy himself whether a particular man has got a business or not. It is beyond the scope of the lender to find out whether the money which has been advanced is actually used in the business or not. Mr. Hamidul Huq Chowdhury has said that after the loan is given, an enquiry might be started. But I would ask what is the good of making an enquiry when the loan has already been advanced? When a man has parted with the money, no good will come to any one to have the enquiry. We must try to be as just as possible and this little alteration will in no way strifle the object for which the "Explanation" has been incorporated. On the other hand, it will clarify the issue and make the position of the lender and the debtor clear. With these words, I commend my amendment to the acceptance of the House.

Mr. PRESIDENT: Amendment moved: that in the Explanation to sub-clause (*4*) of clause 2 of the Bill, after the word "loan" in line 4, the word "intended" be inserted.

Mr. NARESH NATH MOOKERJEE: May I point out to the House that this alteration is likely to save a lot of litigation because as the onus now will rest with the money-lender, what he will generally do is that he will get an undertaking from the borrower and enforce it criminally against him and use the criminal courts to realise his money. I think that if this alteration is not made, it will entail a great hardship on the debtors and I think that this will be a very bad and a very dangerous weapon in the hands of money-lenders. I do hope that my friends will clearly understand the implication of this amendment and support it.

Mr. KADER BAKSH: Sir, I oppose the amendment simply on the ground that though it is innocent on paper, it will not lead to any improvement on the provision. I oppose it because there does not appear to be any necessity for it.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, there is another reason why this amendment should be opposed. The Explanation, as it stands, makes it clear that the loan must be understood to be used solely for the purposes referred to in the clause, but the amendment wants that it must be intended to be so used. That is, the intention of the debtor must decide the question. Sir, it is impossible in a court of law or in a controversy to prove what was the intention of the debtor.

Mr. NARESH NATH MOOKERJEE: It is always done.

Khan Bahadur NAZIRUDDIN AHMAD: Though the word "intended" is attempted to be introduced for a very noble and bona-fide purpose, its effect will lead to a very difficult situation. In the circumstances, I beg to submit that the Explanation, as it stands, makes the point clear. The introduction of the word "intended" will make it more complicated.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, the amendment is unnecessary. If this is accepted, it will mean that it is the intention of the borrower rather than the written terms that will have to be respected. The written terms may be of one character and the intention may be of a different character. So, if you say that the intention is to use the money in a particular way and the terms say that it is to be used in a different way, it will lead to a very conflicting state of things. I do not believe that the law should be so enacted that the terms may be of one character and the intention of a different character. So, I oppose it.

Mr. HUMAYUN KABIR: Mr. President, Sir, I must confess that I am astonished at the statement of the Hon'ble Minister and that of Khan Bahadur Naziruddin Ahmad. Sir, I believe that both of them have some experience of law and the fact that with that experience of law they come here and say that there may be a difference between the intention and the written terms is something which passes the comprehension of a mere layman like myself. For, I take it, if there is a written document, that written document will stand against any kind of asseveration of pious intentions which a particular individual may cherish in his heart of hearts. Therefore, Sir, the word "intended" would definitely be an improvement, because it would

take away the possibility of ambiguity and the arguments which have been advanced by Khan Bahadur Naziruddin Ahmad are, I think, quite beside the point.

Khan Bahadur M. SHAMSUZZOHA: Sir, with respect to the controversy that has arisen, my submission is that the object of the Bill is to safeguard the interests of the borrower. The Bill wants that the loan should be for purposes other than commercial. If that is the object, it is necessary that the intention of the borrower should not be the determining factor but the use to which the loan will be put. That is the most important consideration. So, from the standpoint of the object underlying the Bill, it is better, that the word "intended" is not inserted.

Mr. PRESIDENT: The question before the House is: that in the Explanation to sub-clause (*4*) of clause 2 of the Bill, after the word "loan" in line 4, the word "intended" be inserted.

The question being put, the House divided with the following result:—

AYES—14.

Banerjee, Rai Bahadur Keshab Chandra.
Chakraverti, Mr. Shrish Chandra.
Das, Mr. Lalit Chandra.
Datta, Mr. Bankim Chandra.
Goswami, Mr. Kanai Lal.
Maitra, Rai Bahadur Brojendra Mohan.
Mookerjee, Mr. Naresh Nath.
Mukherji, Rai Bahadur Satis Chandra.
Pal Choudhuri, Mr. Ranajit.
Poddar, Mr. H. P.
Roy, Mr. Amulyadhone.
Sarker, Rai Sahib Indu Bhusan.
Sinha, Rai Bahadur Surendra Narayan.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.

NOES—32.

Ahmad, Khan Bahadur Naziruddin.
Ahmed, Mr. Meshahuddin.
Ahmed, Mr. Nur.
Baksh, Mr. Kader.
Barua, Dr. Arabinda.
Chowdhury, Mr Khorshed Alam.
Chowdhury, Mr. Hamidul Huq.
Cohen, Mr. D. J.
D'Rozario, Mrs. K.
Haider, Nawabzada Kamruddin.
Hosain, Khan Bahadur Saiyed Muazzamuddin.
Hossain, Mr. Latafat.
Hossain, Mr. Mohammed.
Hunter, Mr. H. C. A.
Huq, Khan Bahadur Syed Muhammad Ghaziul.
Ibrahim, Khan Bahadur Maulvi Mohammad.
Karim, Khan Bahadur M. Abdul.
Khan, Khan Bahadur Muhammad Asaf.
Laidlaw, Mr. W. B. G.
Mackay, Mr. H. G. G.
Molla, Khan Sahib Subidali.
Momin, Begum Hamida.
Rahman, Khan Bahadur Ataur.
Rahman, Khan Bahadur Mukhlesur.
Rashid, Khan Bahadur Kazi Abdur.
Ray, Mr. Nagendra Narayan.
Ross, Mr. J. B.
Roy, Rai Bahadur Radhica Bhusan.
Scott-Kerr, Mr. W. F.
Sen, Rai Sahib Jatindra Mohan.
Shamsuzzoha, Khan Bahadur M.
Singh Roy, Mr. Saileswar.

(The amendment was nagatived.)

Mr. PRESIDENT: I adjourn the Council till 2-15 p.m. on Tuesday, the 12th December, 1939.

Adjournment.

The Council then adjourned till 2-15 p.m. on Tuesday, the 12th December, 1939.

Members absent.

The following members were absent from the meeting held on the 11th of December, 1939:—

(1) Rai Bahadur Manmatha Nath Bose.
(2) Mr. Humayun Reza Chowdhury.
(3) Khan Bahadur Rezzakul Haider Chowdhury.
(4) Mr. Kamini Kumar Dutta.
(5) Khan Bahadur S. Fazal Ellahi.
(6) Khan Bahadur Alhaj Khwaja Muhammad Esmail.
(7) Maulana Muhammad Akram Khan.
(8) Dr. Radha Kumud Mookerjee.
(9) Mr. E. C. Ormond.
(10) Mr. K. C. Roy Chowdhury.
(11) Mr. Sachindra Narayan Sanyal.

B. G. Press—1939—10—10894A—750.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Tuesday, the 12th December, 1939, at 2-15 p.m. being the ninth day of the Third Session, pursuant to section 62(2) (*a*) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Training in Physical Education for primary school teachers.

62. Mr. NUR AHMED: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state what steps he has taken or intends to take for introducing compulsory physical education for the primary school teachers?

(*b*) Have any itinerant instructors been appointed in Bengal, at least one for each division, on the lines of the Bombay Scheme?

(*c*) If not, what other alternative scheme has been adopted in Bengal to impart training in physical education to primary school teachers?

(*d*) Is any expenditure incurred in Bengal for imparting training in physical education for primary school teachers? If so, what is the amount? If not, why not?

(*e*) What is the total sum that was spent in Bengal on this head during the years 1936-37, 1937-38 and 1938-39 respectively?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Hon'ble Mr. A. K. Fazlul Huq): (*a*) and (*c*) Government has appointed 26 District Organisers of Physical Education. These officers, in addition to other duties, conduct short courses in physical education for the primary school teachers in their respective districts. In addition to this, the teachers under training in the *guru*-training schools also receive training in physical education. These courses are not compulsory, but every attempt is made to bring the teachers to these courses and the response has been good.

(*b*) No.

(*d*) Yes. The amount spent for the physical education of teachers of primary schools is Rs. 5,200.

(*e*) The total amount spent for imparting physical education to primary school teachers in Bengal were—

	Rs. (Approximately.)
1936-37	... 27,205
1937-38	... 29,685
1938-39	... 1,40,000

Bengal Sanskrit Association.

63. Rai Bahadur BROJENDRA MOHAN MAITRA: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether it is a fact that a representation was submitted in August last by over one hundred eminent *Pundits* of East and West Bengal and also other prominent educationists including a number of M.L.A.'s and M.L.C.'s urging upon the Government the necessity for immediate separation of the dual functions of the Principal of the Sanskrit College who is also the *ex-officio* Secretary of the Bengal Sanskrit Association?

(*b*) Why is the scheme of separation being delayed?

(*c*) When are definite steps likely to be taken to this end?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Hon'ble Mr. A. K. Fazlul Huq): (*a*) Yes.

(*b*) and (*c*) The matter is still under consideration.

Burdwan Collectorate.

64. Khan Bahadur ATAUR RAHMAN: (*a*) Will the Hon'ble Minister in charge of the Revenue Department be pleased to state how many applications submitted by clerks of the Burdwan Collectorate for copies of the orders of the Collector on matters relating to their services, were rejected by the present Collector?

(*b*) If any application referred to in paragraph (*a*) were rejected, will the Hon'ble Minister be pleased to state what are the reasons for such rejection?

(*c*) How many representations, appeals, memorials, petitions or the like, against or concerning an order of the same Collector in any matter regarding their service by the clerks of the Burdwan Collectorate were not forwarded to the authorities to whom such representations, appeals, memorials, petitions or the like were addressed, by the present Collector?

(*d*) If reply to paragraph (*c*) be in the affirmative, will the Hon'ble Minister be pleased to state the reasons for each case of rejection?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) Two.

(*b*) Rules did not permit granting of copies of the orders.

(*c*) One appeal and one petition.

(*d*) The appeal did not lie under the rules.

In the petition, the clerk wanted a copy of the Commissioner's order and prayed that effect should be given to it. A substance of the order of the Commissioner was given to him as allowed under the rules. The order of the Commissioner was given effect to before the petition was filed.

Khan Bahadur ATAUR RAHMAN: May I enquire from the Hon'ble Minister whether it is not a fact that a clerk whose promotion is affected or regarding whom any order adverse to his service is passed, if it is not confidential, is entitled to have a copy of the same?

The Hon'ble Khwaja Sir NAZIMUDDIN: It appears that under the existing rules he is not entitled to it.

Khan Bahadur ATAUR RAHMAN: May I request the Hon'ble Minister to refer me to the particular rule which he has in view?

The Hon'ble Khwaja Sir NAZIMUDDIN: I ask for notice. I have not got the rules with me.

Non-official Resolution on War.

Mr. PRESIDENT: Order, order. His Excellency the Governor has been pleased to fix to-day and to-morrow for discussion of the non-official resolutions on War. I have received notices of several resolutions. Some of them may be treated as amendments to the first resolution, but others cannot be so treated because they enlarge the scope of the subject-matter which is not allowed under the Bengal Legislative Council Procedure Rules. What I propose to do is to allow all the resolutions to be moved. At the same time, I expect that the leaders of different groups would meet and try to arrive at a common formula which may be acceptable to the whole House or to the maximum number of members of the House. The Chair would be glad to accept notice of such an agreed resolution at any time, if that can be evolved.

Rai SURENDRA NARAYAN SINHA Bahadur: Mr. President, Sir, I beg to move the resolution which stands in my name, viz. :—

That this Council is of opinion that whole-hearted help and support should be given to the British Government in the prosecution of their War against German menace.

Sir, for some time past the Nazi party in Germany has been in power. Austria and Czechoslovakia were the first to fall victims to the ambition of Herr Hitler and were converted into protectorates of Germany. The other countries of Europe, specially the great democracies of the West, had to look on powerlessly on these acts of rapacity on the part of the Third Reich in Germany. Shrill protests against such loss of independence of the Czechs rang out from all parts of the world and the intervention of England for a peaceful settlement of the Czechoslovakian problem ending in sad disaster, the English, the French and the Russians were subjected to a good deal of calumny for not having come to the aid of the Czechoslovakian State. England was no doubt morally bound to support the Treaty of Versailles and as a member of the League of Nations, she was under a further obligation to stand against the dismemberment of another member of the same League. But she was under no separate treaty obligation or pact to come to the aid of Czechoslovakia in case of aggression. Yet, public opinion in England went against the Government of Mr. Chamberlain for this act of omission. Such was the case in India too. If India had been a Sovereign State with powers of declaring War and Peace, I have no doubt that in the state of the then public opinion, she would have tried to come to the aid of a sister member of the League of Nations which was being robbed of its independence. But that was not to be. She was not, in the stage of political and constitutional development which she had reached, in a position to assert herself. Then came the turn of Poland. She tried to meet the menace of Nazi supremacy by appealing to the public conscience of the world. England and France guaranteed her integrity by solemn pacts. India was satisfied that the independence of Poland had been made by the Western democracies a cause of their own. When she was violated in flagrant breach of recently renewed pacts of non-aggression by Germany, the conscience of the whole world was shocked and there was not a single party in this wide Indian continent whose sympathies were not with Poland in her sad lot and with the Allies in their great struggle for the restoration of the States of Czechoslovakia and Poland. It is not difficult to find out motives for the conduct of England and France, and no Indian party has as yet suggested that the Allies did something improper in coming to the help of Poland. Our only grievance is that we had no say in the matter—that we were not consulted in the matter beforehand. It is no doubt true that our status is not the same as that of other free countries, not even the same as that

of the Dominions of the British Commonwealth of Nations. But we, Indians, certainly wanted to help Poland in her distress and if, independently of us and without our consent, England and some other members of the British Commonwealth of Nations have gone to war against Germany impelled by the enormity of her crimes, should we sulk and keep away from the struggle for arresting the spread of the Nazi menace to other countries of the civilized world? If the mission that she has taken upon herself is dear to us, it is no counsel of prudence to stand by and let that sacred mission be frustrated for want of proper support. The question of our political and constitutional status should, no doubt, simultaneously tackled, but nothing should be done to hamper the great work of fighting the menace itself which might turn out to be more formidable if we lose the present opportunity. We must settle our scores with England now and hereafter, but we should not shirk our common duty of prosecuting the war to a success.

Sir, with the advent of the war, the question of our own defence has come to the fore. We, Indians, are not in a position to defend ourselves because England has not given Indians any scope to have military training. That being the case, along with prosecution of the war, the Indian problem should be considered more seriously and Britain should come forward in the near future with a revised Constitution which would confer on the people of India almost all the powers enjoyed by the Dominions and thereby advance her political status.

Sir, even after the formal declaration of war by all parties in Great Britain and Northern Ireland, demands have gone forth from several quarters of those realms for clarification of the war aims of the allies. The great dominions of the King threw themselves into the struggle in the first instance, without pausing to ask what their ultimate objective was in pushing on the War against Nazi tyranny. Not the humiliation of any people or nation, nor the acquisition of any fresh territory by any of the combatant powers; neither the spread of Imperialism nor the imposition of any particular form of Government on any other country is up till now the declared aim of any of the allies of Great Britain. The immediately declared aim of the two allied countries is resistance to Nazi aggressiveness and the restoration of Czechoslovakia and Poland; but larger questions like the settlement of the problem of European peace have already come to the fore and more and more the idea of a better ordering of human society is looming large before mankind. The question of establishing some sort of a federation in Europe is being mooted seriously even in the English press. The British Commonwealth of Nations is trying to evolve a federal constitution to combat some of its centrifugal forces and the idea of pushing on the implications of "Dominion" within the meaning of the Statute of Westminster seems to be on the wane. The progressive thought in the Western democracies of the world is

for the surrender of some rights and privileges incidental to sovereign independence in the interests of the Union of Democracies. It is natural for us in India to inquire where we are to come in in this picture. Some parties in this country are clamouring for India being declared an independent nation; others are for the attainment of Dominion Status. The whole question of India's status in the world and in the British Commonwealth of Nations will have to be tackled and settled, if possible, even before the war comes to an end. Without a federation of the Indian States and the British Indian provinces, fully responsible Government will not probably be established at the Centre; but the advent of the federation has been delayed owing to the outbreak of the war, and no responsible popular Government at the Centre is yet in sight. The question of minorities and of the numerous safeguards admittedly necessary to protect their interests is also held out as a ground for withholding responsible Government at the Centre and recognition of her status as a self-governing nation in the British Commonwealth of Nations. But the problem will have to be faced fairly and squarely by the British Government whatever the difficulties may be. We must go on pressing for better political status, but this should not be made a matter of bargain for rendering help in the prosecution of the war. That will take away the grace from the high purpose which we are setting up before ourselves in waging war against Nazi aggression. If we think that England and France were right in coming to the aid of Poland, we should extend full co-operation to England in her great mission. If we embarrass England at this juncture, we may perhaps extort some promises of future rights. But of what worth will they be if there is to be a *debacle* for want of proper support from our side, in men, money and other material resources? So, the question of successful prosecution of the war should be separated from the struggle for the assertion of our claim to better political status. If German or Russian aggressiveness be not nipped in the bud, the whole world will be overwhelmed with chaos and the freedom of India which we have so much at heart is likely to be engulfed by Hitlerism.

Sir, for some time past the spirit of ruthless conquest and destruction is abroad in the world. Manchukuo, Abyssinia, Spain, Austria, Czechoslovakia—each in its turn—has become a prey to this Moloch. To rouse the democracies of the world to a sense of their duty, a specially recorded message of our Poet Rabindra Nath Tagore was broadcast on the Empire Day when Canada, with the King on her soil, called India on May 29 last, which ran as follows:—

"Through the troubled history of man
Comes sweeping a blind fury of destruction
And the towers of civilisation topple down to dust.

In the chaos of moral nihilism
Are trampled under foot by marauders
The best treasures of Man heroically won
By the martyre for ages.

Come young nations, proclaim the fight for freedom,
Raise up the banner of invincible faith.

Build bridges with your life across the gaping earth
Blasted by hatred,
And march forward.

Do not submit yourself to carry the burden of insult
Upon your head,
Kicked by terror
And did not a trench with falsehood and cunning
To build a shelter for your dishonoured manhood;
Offer not the weak as sacrifice to the strong
To save yourself."

The young nations of the world—Canada, Australia, New Zealand, South Africa—have taken up the fight and trooped round the banner of humanity when the spirit of destruction spread to Poland. Will India lag behind when her call to action has been so enthusiastically responded to by the Western democracies?

With these words, Sir, I commend my resolution to the acceptance of this Council.

Mr. PRESIDENT: Resolution moved: That this Council is of opinion that whole-hearted help and support should be given to the British Government in the prosecution of their War against German menace.

Rai KESHAB CHANDRA BANERJEE Bahadur: May I, Sir——

Mr. PRESIDENT: Order, order. Mr. Humayun Kabir will first move the amendment standing in his name.

Rai KESHAB CHANDRA BANERJEE Bahadur: May I, Sir, with your permission move resolution No. 2 by way of amendment to resolution No. 1?

Mr. PRESIDENT: All right.

Rai KESHAB CHANDRA BANERJEE Bahadur: Thank you, Sir. I beg to move the following amendment:—

This Council is of opinion that His Excellency the Viceroy and His Majesty's Government in England should be informed of the unswerving allegiance of the people of Bengal to His Majesty's Throne and Person and their readiness to stand by Britain in her present struggle for the vindication of the principle of Democracy against the insensate and ruthless violation by Germany and other aggressive nations of the integrity of weaker independent countries.

Sir, I desire at the outset to explain my object in couching the resolution in the above terms offering our unstinted support to the British Government for successful prosecution of the War. Nationalist India has expressed in an unequivocal manner her strong condemnation of the methods adopted by the Totalitarian Powers in depriving smaller and weaker nations of their independence by ruthless invasion of their territories. This has very rightly excited the ire of democratic countries like Britain and France who have at long last taken up arms not for any territorial aggrandisement but in defence of the principle of Democracy. The Indian National Congress has already defined its attitude which is one of conditional co-operation. In outlining its policy, the Congress has asked the British Government to declare whether they are willing to apply to India the same principles in defence of which they have taken up arms against Germany. But the Liberal school of political thought in India is not in favour of bargaining with England and of embarrassing her by putting forth demands at the present juncture. They hope that Britain will not be slow to discharge her obligations to India if at this hour of trial India helps her in winning the war.

Sir, we, on this side of the House, do not believe in the doctrine of non-co-operation as an effective means of wresting political rights from the hands of the British Government. This is not the time to fritter away our energies in acrimonious discussions about questions of political status or form of future constitution. The political situation in Europe is not without any significance so far as we are concerned. It already threatens to envelop the whole world in a conflagration unprecedented in history. The recent move of Soviet Russia, no doubt, constitutes a grave menace to India. The German propaganda is interpreted, *inter alia*, as conjuring up a spectre of vast Soviet aggressive design on Turkey and India, the object being to divert the attention of the Allies from the European theatre of War. The Russian bogey has become the subject of interesting conjectures in many parts of the world. In a leading article, the "Statesman" drew up a lurid picture of a possible Soviet invasion of India. It wrote: "It is possible that what we are witnessing now is only the preliminary to

an ultimate clash between two systems which may involve the greater part of the world before we reach peace and the possibility of reconstruction in a new Order; that Asia will be drawn directly into that struggle: that Central Asia is as fated to be a meeting ground for opposing camps as Central Europe; that eventually India may have to withstand the shock of an attempt to force her willy-nilly into a Union of Soviet Socialist Republics, probably not as India, but in a disrupted form as fifty or a hundred or two hundred Soviet Republics—all these are possibilities which cannot be dismissed." These were the observations made in September last and cannot be said to be chimerical, as subsequent events have shown. The invasion of Finland and the Soviet warning to Turkey are matters which cannot be trifled with. That Russia's declarations are not consistent with her activities will be admitted on all hands. The Soviet Dictator in outling Russia's foreign policy a few months ago said: "We stand for peace and strengthening of business relations with all countries. We stand for peaceful, close and friendly relations with all the neighbouring countries which have common frontiers with the U.S.S.R. We stand for the support of nations which are the victims of aggression and are fighting for the independence of their country."

This solemn declaration was soon followed by the occupation by Soviet Russia of Eastern Poland, the conversion of Estonia, Latvia and Lithuania into vassal States and the wanton invasion of Finland. Those of our countrymen who have nothing but admiration for the Soviet ideals and principles and have condemned in no uncertain terms England's participation in the War as being actuated by Imperialistic designs will now, perhaps, modify their attitude towards Communism, which they consider to be the "noble" ideal of Soviet Russia. They forget the fundamental fact that on the grave of Marxism and Leninism has risen the new spectre of Stalinism. Red communism stands unmasked to-day in all its nakedness.

Sir, the situation in India to-day is such as to call for united action against foreign aggression. India is not strong enough to resist invasion without the active support of the British Government. This brings us to the question of Indian defence. The decline in the military capacity of the people of India has been due not only to the effects of the special method of recruitment but to the general policy as well. There was a time when British soldiers and administrators were not as reticent as they are to-day. We find Sir Richard Temple, one of the former Governors of Bombay, writing in 1859, that "In India under British rule, the former martial tendencies of the native population gradually become lessened till they almost disappear, and this circumstance is considered to be one of the safeguards of our rule. So conscious has the Government been of this that within the present generation the native population has been generally 'disarmed'; that

is, the people have been enjoined to give up their arms". This policy is directly opposed to the practice of Governments which have a stake in the man power of their countries.

Sir, Bengal has been neglected in the matter of military training. The persistent demands of the people for such training have met with no response from the Army Department of the Government of India. Their indifference is responsible for the emasculation of the Bengalees as a race. In countries like Great Britain, where the voluntary system prevails, it is the custom to give a large portion of the civil population a short term training in a second line army like the Territorial Army while in the countries which have conscription but cannot absorb all the available man power in the regular Army, care is taken that no portion of the eligible quota is wasted through thoughtless rejection. In fact, all modern countries possess a wide system of preparatory military training in schools and colleges as well as outside them with a view to developing young men physically and morally for defence whether or not they actually enter military service. If the Bengalees had been given military training, Bengal could alone put into the field 5,000,000 (fifty lakhs) of able-bodied men to fight side by side with their British comrades in defence of their motherland in the event of a foreign invasion.

Sir, I need hardly emphasize the necessity for a change of policy at this critical moment, especially in view of the unfriendly attitude of Russia and Japan. I have already dealt with Soviet Russia. Japan also constitutes a real menace to Bengal. Her attitude is inexplicable. The British blockade of German trade has upset her and she has lost no time in lodging a protest to Britain threatening reprisals if her merchantship the "Sanyomaru" which is due to leave Rotterdam to-day with German exports for Japan is interfered with in any way. But she has not said a word against Germany's indiscriminate submarine and mine warfare involving a serious loss to neutral shipping. It is high time, therefore, that the Imperial Government took the people of India into their confidence and evolved a satisfactory scheme for the defence of the Empire.

While I do not make the grant of complete self-government to India a condition precedent to our offer of co-operation, I cannot conclude without appealing to the British Government to change their policy and to announce for the satisfaction of the Indian people that in consonance with the aims of the present war as declared by that Government and understood by India, and consistent with the accepted ideal of the British Empire as a Commonwealth of free nations, the attainment by India of the status of a Dominion, as defined in the Statute of Westminster, which is the declared policy of the British Government, would be implemented immediately on the termination of the

present War. As the House will agree, the question of Dominion Status is bound to raise the vital issue of self-defence, and having regard to the fact that the Bengalis are about the only community in India who are excluded from the Indian Army, I would again earnestly request the Government to consider this question very seriously and to accord their immediate sanction to the formation of a Bengali Regiment, so that consistent with the prestige of our race we may be in a position to defend our hearths and homes. I need hardly add that Dominion Status without the strength to preserve it would be a meaningless ideal, and I, therefore wish that the demand of this House for Dominion Status should be implemented by an unequivocal demand for immediate facilities for the grant to the Bengali people of a permanent place in the Army.

With these words, Sir, I commend my amendment to the acceptance of the House.

Mr. PRESIDENT: Amendment moved: That this Council is of opinion that His Excellency the Viceroy and His Majesty's Government in England should be informed of the unswerving allegiance of the people of Bengal to His Majesty's Throne and Person and their readiness to stand by Britain in her present struggle for the vindication of the principle of Democracy against the insensate and ruthless violation by Germany and other aggressive nations of the integrity of weaker independent countries.

Mr. LALIT CHANDRA DAS: Mr. President, Sir, with your permission, I desire to move the resolution which stands in my name as amendment to War Resolution No. 2.

Mr. PRESIDENT: Order, order. There is no resolution No. 2. That has been treated as an amendment. You move yours also as an amendment to the resolution moved by Rai Bahadur Surendra Narayan Sinha.

Mr. LALIT CHANDRA DAS: All right, Sir. I beg to move that for all the words beginning with "of the unswerving allegiance" up to the end, the following be substituted, namely:—

That in consonance with the avowed aims of the present war, it is essential that in order to secure the co-operation of the Indian people, the principles of Democracy and Self-determination, with due safeguards for minority interests, should be applied to India and her policy should be guided by her people and that India should be regarded as an Independent Nation entitled to frame her own Constitution; and further

that suitable action should be taken, in so far as it is possible in the immediate present, to give effect to that principle in regard to the present governance of India including arrangements whereby all war measures in this Province may be undertaken and executed through the Provincial Government;

that this Council regrets that the British Government have made India a participant in the war between Great Britain and Germany without the consent of the people of India and have further, in complete disregard of Indian opinion, framed laws and adopted measures curtailing the powers and activities of the Provincial Government; and

that this Council profoundly regrets that the situation in India has not been rightly understood by His Majesty's Government when authorising the statement that has been made on their behalf in regard to India.

Sir, in part II of his book "Civitas Dei", Mr. Lionel Curtis remarked that at the Imperial War Conference of 1917, the big Dominions pressed their claims for full recognition as autonomous nations of an Imperial Commonwealth and claimed also an adequate share in its foreign policy. Sir, was that bargaining? Was that blackmailing? And did England feel scandalised by those claims? We fail to understand why these expressions—bargaining, blackmailing—are being freely used in relation to India because of her demand for being declared a Free State.

Sir, the Dominions got what they wanted. There was the Balfour Declaration of 1926. The Statute of Westminster of 1931 gave them even the right to secede from the British Empire, if they so desired. This is one picture. Now, Sir, look to the other.

India in 1914 joined the war in aid of England without any condition whatsoever and Mahatma Gandhi threw the entire weight of his influence on her side. And what was India's reward at the end of the War?

In 1919, the Government of India Act was enacted with a Preamble which laid down progressive realisation of Responsible Government as the ultimate British aim in India. No time-limit was fixed. It could be attained in thousand years or in ten. That it was not in ten nor even in twice ten years, have now been proved. Responsible Government was to be reached in successive stages. For each stage of advance, the British Parliament was to be the sole judge of India's fitness for the same, as if, Sir, India, considered as a unit and a person, was a mere clerk in a merchant's office whose promotion must depend on the sweet will of the Burra Sahib.

Sir, let it be remembered, in this connection, that India, between 1914 and 1918, contributed in money over £14,60,00,000 by way of gifts

and contributions in support of the British fighting forces and £8,00,00,000 in the shape of stores. Let it be remembered also that India placed all her ships at the disposal of the British Navy and mobilised over a million men of whom about a lakh died in Flanders and in Mesopotamia.

That Act of 1919, Sir, was not her only reward. There was also the Jallianwallah Bagh Massacre. Matters drifted from bad to worse leading India to the path of non-co-operation and in some quarters to paths of violence. Lord Irwin felt the necessity of assuaging public opinion in India and so in 1929, he interpreted the wordings of the Preamble of the Government of India Act, 1919, and declared that it was the intention of Great Britain to confer Dominion Status on India as soon as feasible. Ten years after that, the same interpretation is being paraphrased and reinterpreted by authorities both here as well as in England in reply to questions as to the British War and Peace aims in relation to India.

Sir, leaders such as Mahatma Gandhi, Mr. Jinnah and others were then called, as now, to meet the supreme authority in India. The mountain was in labour and it produced the proverbial mouse. No time-limit was guaranteed for the attainment of Dominion Status nor was any attempt made to indicate definitely as to whether it would be of the kind defined in the Statute of Westminster. This was in 1929. Soon after, in 1930, the Congress met and adopted the resolution declaring complete Independence to be the goal of India's political aspirations. This, Sir, is also the declared aim of the Moslem League of which Janab Jinnah Saheb is now the accredited leader and of which our Home Minister and the Chief Minister are prominent members. The Moslem League members, unless they are for the moment henchmen of British Imperialism from interested motives, cannot subscribe to any proposition less than Independence without proving disloyal to the declared aim of their own League to which they swore allegiance.

Sir, in no uncertain voice, India demands Independence and that is what is embodied in the amendment which I have moved to-day. Sir, I am definitely of the opinion that the Dominion Status envisaged in the speeches of the Pro-consuls is but another name for making India a partner, a subordinate brown partner, I should say, in an Imperial Commonwealth of Nations composed of some of the white races. Imperialism will be there. And with Imperialism, India will have no part or share.

Sir, India stands for sovereign rights. True, such a course will create for her a position of isolation. Even so, is it not the case with all independent nations, big or small? Given independence, alliance of India with England and her friends will be within the range of

practical politics. Such an alliance will work well, so long as the World League of Independent Nations is not brought into being which will ensure peace and security for all.

Sir, emphasis is laid by the authorities, both here as well as in England, on the fact that much of the difficulties in the way of their conceding what India wants has arisen owing to the great differences of the two great political organisations—the Congress and the Moslem League—on some material particulars.

But where, we ask, is the difference in their demand for Independence? Why must not England then declare India a Free State? Sir, it is only a Free India which can help.

The declaration of India's independence is a great moral issue. The Christian nations of Europe have lost their religion. They have fallen far from the high ideals of Christianity and have converted God-given knowledge into the Satanic art of destroying each other. Sir, at a time when the ancestors of these peoples were living in caves and in darkness, India carried the torch of Truth and Civilization to the remotest corners of the Earth. We, who believe that not a leaf falls without God's will, we ask ourselves, has this war come without a purpose? The answer on our side is an emphatic "No". Sir, the world needs India. And India, to be of help to the stricken world, needs to be made free from her shackles of bondage. India, made free, will give such moral and material weight that not only will England have acquired sufficient strength to compel her foes to sue for peace but she will have acquired also the true friendship and sympathy of millions of people all the world over.

Sir, how fantastic, how monstrous it is that without being told what for we should be fighting, we should be expected to be digging trenches and dying like flies for a cause which is not our own, for a people we know not and for countries ten thousand miles away? Must our people fight to free Poland, Czechoslovakia and other countries and yet not to free our own country for, forsooth! we do not belong to Europe? Must we fight as mercenaries or lackeys?

Sir, is it not for the purpose of creating enthusiasm into the minds of the British and the French youths to take part in and prosecute the war to a successful issue that the British Premier declared during the earlier stages of the present War that Great Britain had gone to war in defence of freedom and democracy in Europe? What does he mean now by confining his War and Peace aims to Europe? True, he added, Europe once made free, there will be time to think of the rest of the world? Sir, where is the guarantee that Europe made free, will not, after the War, make it a business or a commercial proposition for all the white races on earth to form themselves into a League to exploit, more vigorously than ever, the rest of mankind?

Sir, we do not lose sight of the fact that on the 7th of November last, Lord Halifax, pestered by questions from all quarters of the Globe, broadcasted:—

"We are fighting for freedom—we are fighting for peace. We are meeting a challenge to our own security and that of others. We are defending the rights of all nations to live their own lives. The new world that we seek will enlist the co-operation of all peoples on the basis of human equality, self-respect and mutual tolerance." Sir, India furnishes the acid test of the sincerity of such professions on the part of the British Government. Do these words apply to India? Sir, lest it should be interpreted as such, Lord Zetland on that very day declared in the House of Lords, "His Majesty's Government find it impossible to accept the position. The long-standing British connection with India has left His Majesty's Government with obligations towards her which it is impossible for them to shed by disinteresting themselves wholly in the shape of her future form of Government".

Sir, we refuse to take these as the last words on our right to Self-determination and I will try to show to you and the whole House why we are suspicious of British intentions in this regard.

Sir, the Government of India Act, 1935, arose out of the deliberations of the Joint Parliamentary Committee which considerably whittled down the recommendations of the Round Table Conference in material particulars. This Act was condemned by all right-thinking men and by all political organisations of the country including the Moslem League as unworthy of England to offer and of India to accept. Sir, it is neither the occasion nor the time to discuss its various provisions. But I may be permitted to observe that the principles of democratic form of Government were never made applicable to the governance of India under the Government of India Act, 1935. They mislead the world when they talk of having established eleven democracies in the eleven provinces of India. The underlying principles of the Act is the establishment of Dictatorship at the top, almost on par with Hitlerism or Fascism. It was this Dictatorship, Sir, amongst other things, which was responsible for making India a belligerent country without her consent. It was this Dictatorship, amongst other things, which was responsible for sending Indian troops to Egypt, Singapore and to the theatre of war without consulting and ascertaining the wishes of the Central Legislature. It was this Dictatorship again which in complete disregard of Indian opinion prompted the framing of laws and adoption of measures curtailing what little power the Provincial Governments got.

Franchise was enlarged on communal basis and the majority in the Legislature was secured to the majority community by statute. I ask,

is Communal Government or Government by one religious body over others, a democratic Government? This Act in its operation has poisoned the whole political atmosphere of India with never so much as a chance of ever leading the Indians to freedom. And yet, Sir, it is now announced that this Act which requires to be changed, lock stock and barrel, will stand with such modifications, as may hereafter be made with the approval of Parliament by a conference composed of persons representative of various interests in the country. The procedure suggested is exactly the same as before, when Round Table Conferences composed of possible and impossible persons selected by the Government and destined to differ, were called. Sir, such a course is bound to produce the same result.

Can it, therefore, be a matter for surprise if now, as a result of past bitter experiences, it is demanded on behalf of the people of India that England should take her hands off from the task of framing a free constitution for India? Can you wonder if India would now demand of England to declare her a Free State empowered to frame her own constitution and further insist that as an earnest of British intentions, steps should be taken to implement the declaration by introducing, as far as possible, responsibility in the Centre and so enable her to run the administration and conduct the war with the approval and goodwill of a whole people.

Sir, they avoid the real issue when they emphasise our differences. Differences there are and will always be everywhere on earth, so long as men are what they are. The English and the French were quarrelling like cats and dogs at a time when on the recommendation of Lord Durham, self-government was granted to Canada. Since then, the quarrelling parties are the best of friends. Even so was it the case in South Africa. And so will it be in the case of India. There are still fundamental differences between the different groups of political and religious parties in England. Yet, no one outside Bedlam would suggest the abolition of the British Parliament and the substitution of it by Autocracy. Sir, self-rule has been found to be the panacea for all ills.

Sir, when Congress asks for full sovereign rights which independence for India implies, it does not do so for itself but for all; when Congress asks for framing a constitution, it does not do so to frame the constitution by itself. All that it says is that the task should be left to the people themselves. After all, the only opinion that counts is India's opinion. In a Constituent Assembly, broad-based on the widest possible franchise or adult franchise or some such agreed equivalent, the representatives of the people will frame the constitution with the amplest safeguards for the minorities and other interests who will be partners and not serfs. After all, Moslems are not a helpless minority and

if the League's pretence is true that it and no other body represents the Moslems—a proposition which we dispute, for a great body of nationalist Muslims throughout the length and breadth of India, the Momins, the Ahrars, the Shiahs and the Moslems of the North-Western Frontier Province, do not own allegiance to it and the League by its own members could not by themselves form a single Government in India—the League could and should have no objection to such a Constituent Assembly.

Congress has at all times given promises of amplest security to the minorities. The eight provinces, until recently governed by the Congress, furnished the best evidence of the proper treatment of the minorities in those provinces.

Of course, there is no denying the fact that the charges of misgovernment of Moslems have from time to time been made by some members of the Moslem League. But those charges were made with a political motive. The Governors, the Viceroy and the Secretary of State were profuse in their praises of the good Government which the Congress carried on. They knew those charges to be absolutely devoid of foundation; otherwise the Governors would have intervened in their discretion or individual judgment, in exercise of the special responsibility vested in them by the statute. Sir, Bombay and Assam silenced the Hon'ble Mr. Fazlul Huq when he blurted out his charges against them of misgovernment of Moslems by giving facts and figures. Quite recently every other Congress Minister who has now resigned has given the lie direct to Mr. Jinnah. Even then, it may be asked why persons such as the Hon'ble Mr. Fazlul Huq or Mr. Jinnah should be shouting disagreements at a time when all patriots should present a united front. as the Hon'ble Mr. Fazlul Huq or Mr. Jinnah should be shouting disagreements at a time when all patriots should present a united front. Sir, I find it difficult to disagree with those who lay the blame at the door of the Communal Award which is evidence *par excellence* of England's bad faith towards India. As a result of it, such staunch nationalists as Mr. Huq and Mr. Jinnah became confirmed communalists. They began to dream dreams, so the critics think, began to look beyond the frontiers, to Bokhara for instance, and became "*Pan Islamists*" which have made them think, foolishly though, that the Moslems of India together with those beyond constitute a nation by themselves.

Rather than submit to be democratically governed according to all canons of democracy, they have decided, so the critics urge, to support British Imperialism in India so long as they must, all the while bidding their time for an opportunity to establish a Muhammadan kingdom in India. That, the critics say, is the meaning they attach to the word "independence" appearing in the Moslem League's creed. This

explains, the critics say, why they are proving so untractable in the matter of coming to a settlement with Mahatma Gandhi, Dr. Rajendra Prasad and others. Sir, we rather hope that the broad spirit of toleration which has always characterised Islamic culture will assert itself soon or later, sooner rather than later, and overcome this temporary aberration of the mind of Messrs. Jinnah Huq & Co. and help them to realise that they have no future beyond India's frontiers and that it is here with the help and co-operation of their brethren of other faiths that they must realise the political destiny of India.

Sir, once the responsibility of framing their own constitution is thrown on the Indian people themselves, all questions of disunity and all fears of minorities will disappear as mist before the Sun into the thin air. Of course, there will always be found a set of people like the Americans before the War of Independence or like the Ulsterians to petition Parliament for perpetuation of slavery. Such people do not count. They cannot deliver the goods. They are the flotsam and jetsam of every race.

Mr. PRESIDENT: Amendment moved: That for all the words beginning with "of the unswerving allegiance", up to the end, the following be substituted, namely:—

That in consonance with the avowed aims of the present war, it is essential that in order to secure the co-operation of the Indian people, the principles of Democracy and Self-determination, with due safeguards for minority interests, should be applied to India and her policy should be guided by her people and that India should be regarded as an Independent Nation entitled to frame her own Constitution; and further that suitable action should be taken, in so far as it is possible in the immediate present, to give effect to that principle in regard to the present governance of India including arrangements whereby all war measures in this Province may be undertaken and executed through the Provincial Government;

that this Council regrets that the British Government have made India a participant in the war between Great Britain and Germany without the consent of the people of India and have further, in complete disregard of Indian opinion, framed laws and adopted measures curtailing the powers and activities of the Provincial Government; and

that this Council profoundly regrets that the situation in India has not been rightly understood by His Majesty's Government when authorising the statement that has been made on their behalf in regard to India.

Mr. NUR AHMED: Sir, I beg to move that at the end of the resolution, the following be added, viz.:—

This Council further approves of the policy of the Bengal Government towards the present international crisis in condemning Nazi aggression and declares its determination to resist this aggression and to protect the security and honour of the province of Bengal and India with all available resources of the province. It further desires that it should be forthwith made absolutely clear that the constitution of India shall be examined *de novo* at the end of the war with a view to the immediate attainment of the objective of Dominion Status with effective protection of the due rights of the minorities and other sections in consultation and agreement with all the parties and communities concerned.

Sir, I have tried to bring my amendment in such a form that it may be acceptable to all sections of the House. I have been very careful about the choice of words in framing my amendment. I think there are no two opinions in Bengal and in India about the condemnation of Nazi aggression and there are also no two opinions both in this House and outside about the noble aims which have prompted the British Government to take a plunge in this horrible war, thus endangering the whole Empire. So, I hope as regards the first part of my amendment, there cannot be any objection on the part of any one to accept the same. I think that it is the desire of every right-thinking man that the Nazi aggression which has endangered the smaller States and democracies should be checked and crushed at any cost. So long as Nazism is in the ascendancy, there is no hope for a smaller neighbour. There can be no safety, no peace, in the world and the very name of democracy will be forgotten. On this aspect of the question, sufficient speeches have been made and therefore I do not want to dilate any more on that point.

The second part of my amendment declares the Council's determination to resist such aggression and to protect the security and honour of the province of Bengal and India with all the resources available to us. I think that there cannot be two opinions on the question that Bengal and India should be protected against such acts of aggression. As there is an ominous rumour in the air that Russia and Germany are preparing to make an attack on India, I have thought it necessary to add that to my amendment.

Coming to the last portion of my amendment, I must at the outset strongly protest against some remarks of Mr. Lalit Chandra Das who has made very scathing remarks against the Moslems. Mr. Lalit Chandra Das said a minute ago at the top of his voice that the Muslim members of this House who are members of the Muslim League did not

desire independence. With all respect to him, I must say that the purpose, the object, the very nature and the fundamental principles of Islamic religion demands of the Moslems to support independence. Independence may be a very sweet word to Mr. Das. But independence is a part of the creed of Mussalmans. Therefore, it is a great calumny on Mussalmans to say that they do not want Independence. It will be a great slur on the very name of Islam to say so. The Holy Quoran enjoins on every Moslem not to bend his head before any human power except that of Almighty God. Sir, we also want Independence but we want independence in the true sense of the word, in which all the minorities, all the parties concerned, will enjoy full freedom of religion, of culture; and no outside body, no Government, however democratic, will enforce its will or interfere with their culture, with their religion, with their religious observances and with their tradition. That is what the Mussalmans want when they say that they desire independence for their country and not aggression by a majority party upon the minority. That sort of aggression we do not want. The Mussalmans do not want that kind of independence.

I ask Mr. Das to read the history of Mussalmans. They have never betrayed their country. They are as patriotic as anybody in this world. Look to the history of Spain. If he reads the history of Spain, he will find how the Moors of Spain fought for every inch of their motherland. Look again at China. The Chinese Muslims who form an important and powerful minority are fighting with their Chinese brethren of different faiths. Nearer at home, Mr. Das may see how the Palestinian Arabs are fighting for the integrity of their hearths and homes against enormous odds. So, I tell him that Mussalmans are not standing in the way of independence. I think it is a false cry that is raised by hysterical men or men unacquainted with the history of Islamic people.

While I place Bengal and all its resources at the disposal of the British Government, I must submit that we should know that we are fighting as an equal partner, as a free partner, in the British Commonwealth of free nations. So, I say: "It further desires that it should be forthwith made absolutely clear that the Constitution of India shall be examined *de novo* with a view to the immediate attainment of the objective of Dominion Status with effective protection of the due rights of the minorities and other sections in consultation with and agreements of all the parties and communities concerned."

My purpose is not to add to the difficulties of the British Government in the prosecution of the war. As the British Government is now involved in a life and death struggle, and it is a very difficult time for them to go into the problem of minorities and other similar complex problems, my purpose is to be content, for the present, with

merely an unequivocal declaration on the part of the British Government that at the end of the War the whole question of the Constitution of India should be examined *de novo* and a Constitution ushering in the long-expected Dominion Status should be granted to India with due protection to the minorities concerned and with their concurrence.

Much has been said about the Constituent Assembly in this connection. I do not think that the Constituent Assembly will be able to solve the difficult problem of the minorities. From whatever prospective we may look at the question, we will find that it will be of no use in solving the problem. The All-India leaders with their best efforts have not been able to solve this difficult problem up to this time. The great sons of India at the time of the Round Table Conferences could not solve this problem and Mr. MacDonald had to give his Communal Award. How can that problem be solved by the Constituent Assembly? It is said that it will be convened on the basis of adult franchise. It is also said that Mussalmans may be elected on the basis of separate electorate. If so, what will be the position of Mussalmans in that Assembly? If one man is represented by one million men, there would be only 90 Mussalmans as against 250 Hindu representatives. If, in order to justify the principle of democracy, everything is decided by the counting of heads, then the Mussalmans will be in a hopeless minority. It will not be possible for the minorities to accept the decisions of that Assembly. So, in my humble opinion, such a solution of the difficult problem will not help India in any way. I, therefore, propose that the question should be left in abeyance for the time being when a devastating war has been raging in all its fury. Let us in the meantime consider the problem.

With these words, Sir, I commend my amendment to the acceptance of the House.

Mr. PRESIDENT: Amendment moved: that at the end of the resolution, the following be added, viz.:—

This Council further approves of the policy of the Bengal Government towards the present international crisis in condemning Nazi aggression and declares its determination to resist this aggression and to protect the security and honour of the Province of Bengal and India with all available resources of the Province. It further desires that it should forthwith be made absolutely clear that the constitution of India shall be examined *de novo* at the end of the war with a view to the immediate attainment of the objective of Dominion Status with effective protection of the due rights of the minorities and other sections in consultation and agreement with all the parties and communities concerned.

Mr. KAMINI KUMAR DUTTA: Sir, my amendment runs as follows:—

This House is of opinion that the Government of Bengal should convey to the Government of India and through them to the British Government that in consonance with the avowed aims of the present war, it is essential that in order to secure the co-operation of the Indian people, the principles of democracy and self-determination with due safeguards for minority interests should be applied to India and her policy should be guided by her people and that India should be regarded as an independent nation entitled to frame her own constitution and further that suitable action should be taken in so far as it is possible in the immediate present to give effect to the principle in regard to the present governance, including arrangement whereby all war measures in this province may be undertaken and executed through the Provincial Government;

that this Council regrets that the British Government have made India a participant in the war between Great Britain and Germany without the consent of the people of India and have further in complete disregard of Indian opinion framed laws and adopted measures curtailing the powers and activities of the Provincial Government; and

that this Council profoundly regrets that the situation in India has not been rightly understood by His Majesty's Government when authorising the statement that has been made on their behalf in regard to India.

Now, Sir, my amendment, on being analysed, may be placed under three heads. First of all, the amendment says that in consonance with the avowed aims of the present war, it is most essential that in order to obtain the co-operation of the Indian people the principles of Democracy and Self-determination, with due safeguards for minority interests, should be applied to India and that with a view to that policy India should be regarded as an independent nation quite entitled to frame her own constitution by her own people. Secondly, that suitable action should be taken in so far as it is possible in the immediate present as a sign of earnestness, and thirdly, that this Council raises a protest against the action of the British Government making India a participant in the war; this Council profoundly regrets that the situation in India has not been rightly understood by His Majesty's Government when authorising the statement that has been made on their behalf in regard to India by His Excellency the Viceroy.

Sir, the wording of my amendment itself will indicate the tenor of what I want to say. Before I make a further statement on the

subject, I would like, at the very beginning, to give a short history of the past declarations of the British statesmen and also of the past contribution of India in aid of the British Empire.

I think recapitulation of that past history will help us in the present crisis also in guiding us to a proper decision. In giving the past history, I may say that His Majesty the King-Emperor as well as His responsible Ministers including the Prime Minister of England have time and again declared that India is on her way to attain Dominion Status. Statements to that effect have been repeated on several occasions since the last Great War. Now, Dominion Status, according to the definition laid down in the Statute of Westminster, is almost akin to independence with its accompanying rights and privileges. But these declarations about Dominion Status have not been fulfilled in the case of India. As to India's contributions, India helped Great Britain with men, money and war materials, foodstuffs and all her resources in the last Great War. Even the Commander-in-Chief of the Allied Forces had to admit in clear terms that the fate of the Allies might have been quite otherwise but for the presence of the Indian Army at the western front at the most critical period. At the time of the last Great War, India was regarded as a partner. She naturally expected to be an equal partner in the British Commonwealth, but her hopes, though sedulously fostered, have not been fulfilled—rather they were frustrated. I find that when there was the danger of war—I mean the last Great War—India was represented in the War Cabinet as well as in the five-Power conference. India was also represented in several other conferences. India was even declared as an independent member of the League of Nations having to pay a heavy annual contribution; but subsequent events frustrated all our hopes. Promises were soon forgotten. What did we get after that? The thing which was handed over to us was nothing but the utterly disappointing Constitution of 1919 which is popularly known as Montford Reforms. That, as everyone of us knows, satisfied no one. Even the moderates who accepted it and attempted to work it had to reject it, and ultimately they had to declare that it was an unworkable scheme not suited for the future welfare of the people of India. We also find that in the meantime when the British Labour Party was in office in Great Britain and Mr. Wedgwood Benn was the Secretary of State for India, he declared in 1929 in the House of Commons—I will quote his declaration—that "India, like other Dominions, enjoyed her fiscal autonomy and had full powers regarding her own tariff and she was an independent member of the League of Nations. India was having Dominion Status in action.".

When such a responsible statement is made from such high quarters, it is naturally relied upon by the people for whom it is meant. But what was the ultimate result? The ultimate result was the drama of a series of Round Table conferences which ushered in the Government

of India Act, 1935. This constitution had no approach to the promised Dominion Status—not even to Dominion Status in action.

Now, coming to the present situation, we shall find out how India has been treated and whether her grievances are justified. It appears from the British Premier's broadcast on the 3rd of September, 1939, that all the Dominions were consulted by the British Government before the declaration of war against Germany. Some of the Dominions themselves also declared war against Germany. Some remained neutral, e.g., Ireland. In South Africa, there was a sharp difference of opinion resulting in the change of the Ministry. But His Majesty's Government involved India in the war without caring to consult the country or the people's representatives in the legislature. I should say, there was hardly any justification for the adoption of such a procedure. Still, India offered her full support and sympathy for the allied cause. Indian leaders openly declared their support for the cause of the Allies, and of this the most important was the declaration of Mahatma Gandhi. There was no spirit of bargaining in these declarations. But what did they want? They only wanted that the war aims of Great Britain and the assurance of their application to India should be guaranteed. This demand was most natural and proper. No one could go to war in defence of democracy if that democracy is denied to her. As a subject nation, India, if she was resolved upon securing her liberty, could not be expected willingly to help the dominant nation without knowing where she stood and what her future was. Fascistic and imperialistic systems which exploited nations and people were ultimately the real causes of war, and people all over the world, smarting under the yoke of oppression, were yearning for a New Order, which would usher in Peace and Freedom. India also wanted nothing more. In response to these modest demands, His Excellency the Viceroy issued a statement which envisaged Dominion Status for India as a remote contingency. It also contained two other promises. One was the convening of another Round Table conference after the war, although the people had not still forgotten the previous wrongs and the most undesirable results thereof; and another promise was a consultative committee at present to carry on the war preparations with His Excellency at the head, without any clear indication as to the status of that committee. But this declaration has not satisfied any section of the public. It was nothing but a reiteration of the old declaration. Rather, this statement of His Excellency the Viceroy has created an impression that the professed British war aims have no application to India, even though Indian money, war materials and foodstuffs are proposed to be used to help the Allies to come out successful in the war. In justification of this policy enunciated in the statement of His Excellency the Viceroy and of the refusal to make a declaration clarifying the whole position, various pleas have been put forward. Those may be summarised shortly in this way. Communal pleas have been

advanced; rights of the minorities and of the Princes have been pleaded as barriers to Indian freedom. Such minorities exist in all states all over the world. The question of minorities is purely a domestic one for the majority and minority community or interest to settle amongst themselves. No communal considerations should arise in meeting the demand regarding Indian independence, as the minorities, whatever their defence might be, certainly do not oppose India's right to freedom and independence. From no section of the people, there is any indication that they oppose the attainment of independence by India. Mahatma Gandhi has truly said of the statement of His Excellency the Viceroy "that the Viceroy's words were too vague to admit of any clarification. They left everything beautifully vague. For India to be an enthusiastic participant in war it was necessary to speak to her in a language of precision admitting of no other meaning." The Congress Working Committee has said that the Viceroy's statement and his answer to Mahatma Gandhi's invitation are wholly unsatisfactory and disappointing. The Secretary of the great Muslim institution, Jamiat-ul-ulema-Hind, in a statement to the press says that he does not find in the Viceroy's statement even a single satisfactory word for the political development and freedom of India. Maulana Barkatali, a reputed writer and political thinker and a member the All-India Muslim League Working Committee, has said that there was nothing but "Dead Sea fruit" in the Viceroy's statement. Even Sir Md. Usman, ex-Governor of Madras, in a statement appeals to the British Government to accept the Indian public demand. Leaders of public opinion in this country, belonging to all classes and communities, have expressed their dissatisfaction and non-acceptance of the offer contained in the statement of His Excellency the Viceroy. A great capital is being made in interested quarters of the apparent hostility of the All-India Muslim League towards the stand taken by the Indian National Congress in connection with the War situation. But I would like to point out to them the clear implications of the creed of the Muslim League. I will quote the exact wording of the creed from their constitution. It is "the establishment in India of full independence in the form of a federation of free democratic states in which the rights and interests of the minorities and Muslims shall be adequately and effectively safeguarded in the constitution.", So, even the creed of the Muslim League enjoins that attainment of Independence is the goal. The Premier of Sind, namely, the Hon'ble Mr. Alla Bux, has clearly expressed himself in favour of democracy and Indian independence. The Premier of the North-Western Frontier Provinces has resigned in obedience to the Congress call. The Hon'ble Sir Sikander Hyat Khan, the Premier of the Punjab, in his address to a batch of Panchayet officers in October last declared his firm conviction in the following words: "India will get complete independence after the present War." Democracy, as has been said by one of

my friends in this House, is the foundation of the religion founded by the great Prophet Mohammed. It is inconceivable how the great Muslim community can be opposed to any demand for independence and democracy.

Sir, the issue raised in my amendment is a simple one. It is a question which concerns India on the one hand and Great Britain on the other. The question is whether England or India should be the judge of the political and economic destiny of India. The mention of the differences existing between several parties is meant to serve as a screen to hide the true intentions of Great Britain. Declaration of war aims is a test of Great Britain's *bona fides* regarding India, irrespective of the attitude of the opposing parties and groups. There is nothing irretrievable in the declaration already made by the Congress High Command.

The door is still open for satisfying the national demand of India. India has been offered nothing tangible in the statement made by the Viceroy except expression of a pious hope for a distant future and the Princes and the minorities have been dragged in to play their part of obstructing the national progress now. An imaginative Government had a great opportunity of enlisting the sympathy and support of entire India on the side of the British at this crisis. We must look upon the war aims with reference to the Indian problem as an essentially moral issue, as has been said by Mahatma Gandhi. The Congress has not sought to profit by it in any spirit of bargaining. How it is a moral issue will appear clearly from the respective position of Great Britain and India. Does Britain intend to recognise India as an independent nation or must India remain as a dependency of Great Britain? This issue becomes purely a moral issue; for, owing to her control over the Indian Army and also the material resources of India, Britain is able to control India's wealth and utilise it in any way she likes. So, under the present circumstances, it is purely a moral issue which Britain has to answer. The moral and dominant issue is that India's freedom is to be settled satisfactorily before any subsidiary question can be considered. The course of the war and the policy pursued by the British Government and the declaration made on behalf of the British Government regarding India seem to demonstrate that the present war, like the last Great War of 1914-18 is being carried on for Imperialistic ends and British Imperialism is to remain entrenched for ever in India. The unequivocal demand was for a declaration of British war aims in regard to democracy and imperialism and in particular to ascertain how these aims were going to be applied to India, so that the ends could be considered worthy and if they wanted the elimination of imperialism and the treatment of India as an independent nation whose policy would be guided in accordance with the wishes of her own people. The answer to the demand has been unsatisfactory and one is inclined to think that an attempt has been

made on behalf of the British Government to create misunderstanding and in the language of one of our great leaders "to befog the mind on the moral issue." The wishes of those who oppose India's independence are absolutely irrelevant and must be disregarded. The whole thing depends upon the intention of Great Britain. Refusal to make any declaration can only be interpreted as an attempt to avoid a statement of their war aims and to avoid a statement on India's status. Eight provinces out of eleven, have declared in emphatic language that they cannot participate in the war; so, to raise the question of minorities and to fling it on the face of India is nothing but to confuse the real issue. Mr. Greenwood, one of the front-rank British statesmen, said, "It was vital that the people of India during the time of the present world crisis should be enabled to shape the policy in co-operation to end the imperialistic rule." It is also essential that in addition to taking immediate steps, a declaration should be made pledging Britain to the fulfilment of her pledge to grant the right of self-government to India. No one stands in the way of unequivocal declaration by the British Government of their war aims and their application to India, except themselves. To bring in the communal question in this straight issue is to befog the people's mind and to divert them into wrong channel. The future Constitution will provide for ample safeguard for minorities' rights and interests.

With these remarks, Sir, I recommend my amendment to the acceptance of the House.

Mr. PRESIDENT: Amendment moved: That for all the words beginning with "whole-hearted help and support", up to the end, the following be substituted, namely:—

The Government of Bengal should convey to the Government of India and through them to the British Government that in consonance with the avowed aims of the present war, it is essential that in order to secure the co-operation of the Indian people, the principles of Democracy and self-determination with due safeguards for minority interests should be applied to India and her policy should be guided by her people; and that India should be regarded as an Independent Nation entitled to frame her own constitution and further that suitable action should be taken in so far as it is possible in the immediate present to give effect to that principle in regard to the present governance, including arrangement whereby all war measures in this Province may be undertaken and executed through the Provincial Government;

that this Council regrets that the British Government have made India a participant in the war between Great Britain and Germany without the consent of the people of India and have further in complete disregard of Indian opinion framed laws and adopted measures curtailing the powers and activities of the Provincial Government; and,

that this Council profoundly regrets that the situation in India has not been rightly understood by His Majesty's Government when authorising the statement that has been made on their behalf in regard to India.

Mr. HUMAYUN KABIR: Sir, I beg to move that for all the words of the resolution which has been moved by Rai Bahadur Surendra Narayan Sinha, the following be substituted, viz.:—

This Council associates itself with the world-wide abhorrence of the aggressive and ruthless methods pursued by the Imperialistic Governments of the world against the smaller and weaker nations and dependencies, and reiterates its complete disapproval of the manner in which India has been made a participant in the war against her consent.

This Council therefore directs Government to convey to the Government of India and through them to the British Government that in consonance with the professed aims of the present war, it is essential in order to secure the co-operation of the Indian people that principles of democracy and freedom should forthwith be applied to India and her policy should be guided by her people; and that India should be recognised as an Independent Nation entitled to frame her own constitution through a Constituent Assembly to be elected on universal adult franchise with sufficient and effective safeguards for the recognised minorities and their interests.

Sir, I do not think it is necessary for me to make a long speech in support of a resolution of this type. The speeches which have been made up till now are in themselves a support of the amendment to the resolution that I have moved. But I must confess at the very outset that my standpoint is somewhat different from those who have spoken so far. Most of the persons who have spoken till now have spoken of the aggression which is occurring in Europe at the moment, the aggression which now Germany has committed in attacking Poland and which Soviet Russia is accused of committing in Finland to-day. But, I think, Sir, if we look at the question of aggression, it is a much wider question that we have to consider. Aggressive and ruthless methods are not the monopoly of any one country of the world. They are not the monopoly of any one nation or State in the world to-day, but they have been exercised by all the Imperialistic Governments of the world. The fact that we have different Imperial Governments in different parts of the world is in itself sufficient proof that crimes have been committed against weaker nations, against smaller States and against dependencies. The existence of dependencies in the modern world is in itself a condemnation of the world order in which we live and, therefore, Sir, when I speak of our abhorrence of aggressive and ruthless methods, this abhorrence is directed towards the policy of all

those Governments, including the British Government, which to-day are carrying on those methods in order to retain their hold over those dependencies.

Therefore, the first point which I would like this Council to consider is that when we talk of aggression, we must keep our minds free from the war propaganda which has been carried on from day to day. It was Lord Ponsonby who said in a famous book, "when there is a war, truth is the first casualty". During the last war we were told all sorts of atrocious stories about things which were done by both sides, by the particular Governments concerned, and similar things are being stated even to-day. We must therefore go beyond what is said in the newspapers to-day and try to find out the reason for the aggression, for the conflict and for the turmoil.

When we try to understand the reason for this aggression or this conflict, there is no doubt whatsoever that the reason for that is the discontent which prevails amongst smaller nations and weaker States. We have a significant example of this in Palestine. It is because there are smaller and weaker nations and dependencies and they are seething with discontent that there exist centres of unrest and trouble in the world. Big powers try to fish in these troubled waters and out of avarice and greed try to take possession of the smaller nations. I think, Sir, the greatest menace to the peace of the world to-day is the existence of the British Empire, because so long as the British Empire with its command over the resources of such a large portion of the world remains, other powerful Empires, other powerful nations and other powerful countries will want a share in the spoils which Great Britain has almost alone enjoyed till now. It is also inevitable that the countries which are under the domination of the British Empire to-day will try to rise and if those countries try to rise, it is inevitable that there will be conflict and disturbance. It is inevitable that there will be conflicts, not in one part of the world but in different parts of the world. The repucussions then will be far-reaching. Some time ago, it was openly said that the Palestine question was created in order to make the position of the British Empire secure in the Near East. The Jewish problem was created in order to curb the Arabs and in order to deny them their independence. Once, however, the problem is created and once there is a local disturbance, others come in. It was freely said that Germany and Russia took full advantage of the discontent which existed in Palestine and helped the Arabs against the Jews and in this way kept the whole of Palestine in constant turmoil.

When, therefore, we talk of aggression and ruthless methods, we must talk of the aggression and ruthless methods of all Imperialist Governments and the only way of getting rid of these, the only way of saving the world, the only way of preserving peace in the world is

to have a new world order in which there will be no dependencies and no weaker nations, in which we shall have a Federation or Commonwealth of free men where the rights of all countries and of all nations to self-determination shall be recognised.

It seemed to us for a moment when the present war started that certain powerful personalities in England realised the importance of Self-determination for all the nations of the world, and that was why even Mr. Neville Chamberlain at first talked of a new world order. But very soon uncomfortable facts came to the fore, and it was pointed out to him that the new world order in which everybody would enjoy freedom and democracy meant a dissolution of the British Empire as we know it. Immediately, a change came and in all his recent speeches he has been talking of a new European Order. It is a significant change. In all the recent speeches of Mr. Neville Chamberlain, it is of the new European Order that he speaks—a new Order for Europe and not for the world. If we do not want freedom and democracy for the world but try to establish them only in Europe, the result will be another world war. The Great War of 1914 was a war to end all wars and yet ended in a peace which has landed us in a greater world war to-day. Professor Keynes in his marvellous book, "Economic Consequences of the Peace", foretold about 14 years ago that the result of the Treaty of Versailles would be another European conflagration and his prophecy has been fulfilled to-day. If, therefore, European statesmen do not rise above the present turmoil, above their narrow parochial boundaries and their parochial considerations, I am afraid very soon, perhaps in our own generation, we shall again be faced with conflagration, we shall be faced with a conflict in which the world's civilisation will be finally destroyed.

Sir, this war professes to be a war for freedom and democracy and yet in this war India has been made a participant against her consent. There is no denying that between the Indian National Congress and the Muslim League, they represent by far the vast majority of the Indian Nation. In this country, there are certain sections who do not belong to either, but they are in a minority. The vast majority of the people are represented by the Indian National Congress and the Muslim League. Both these bodies have declared more than once that they were not a party to India's participation in the war and when war was declared, both condemned the enforced participation of India in the war to which she is not a party. Therefore, Sir, by the very practice, by the very method which is being followed in the prosecution of the war, it has been established beyond doubt that the present war is not a war of freedom and democracy but it is a war of Imperialistic aggression. It is a war of Imperialistic aggression in which the aggressor at the moment may be Germany, but the British Government is equally guilty. They are defending what they have won in an

unlawful manner. What they have taken by the sword they are defending by the sword. If you condemn one who wants to take now by the sword, you cannot justify another who is defending by the sword what he has got in an unlawful manner by the sword in the past.

Sir, the next part of the resolution refers to the professed aims of the present war. I have used the word "professed" quite deliberately. In spite of the many declarations made by him, Mr. Neville Chamberlain has never been known as a great lover of democracy. His professions for democracy and freedom were not operative when Czecho-Slovakia was attacked, when Sudetanland was taken away by Germany, when Austria was invaded and occupied by Germany and when Germany fortified the Rhineland. In all these cases, there was no question of freedom and democracy but the moment Germany attacks Poland and there is a threat that Germany might become too powerful and dominate Europe, all Mr. Chamberlain's love for freedom and democracy immediately comes to the fore, immediately all the slumbering loyalty and allegience to the ideals which the League of Nations has been trying to propagate for a number of years are again remembered. And Great Britain goes to war. Therefore, I have used the word "professed" deliberately, but if this profession is a real profession, if it is a genuine profession,—and the test of the genuineness of the profession will be the attitude of Great Britain towards India,—if the profession is genuine and if we find that the real aim of war, so far as the British Government is concerned, is to ensure that there will be no Imperial conquests in future, that there will be freedom and democracy for the whole world, then every Indian will support Great Britain in her war and I have no doubt whatsoever that every party in India will support Great Britain in her attempt to control the excesses which Germany has been committing on the European scene.

Sir, there is a further part in my resolution which says that in order to secure the co-operation of the Indian people, the principles of democracy and freedom should forthwith be applied to India and her policy should be guided by her people It will be seen that it is only an amplification of what is already contained in the professed war aims of the British Government which, as I have pointed out to you, Mr. Chamberlain has later on modified, till it is no longer a question of a new world Order but only of a new European Order.

Sir, the last part of the resolution refers to the way in which India should be recognised as an independent nation, entitled to frame her own constitution through a Constituent Assembly to be elected on universal adult franchise with sufficient and effective safeguards for the recognised minorities and their interests. Sir, once we admit that India is a nation, the question of her constitution becomes a pressing problem. It has been said again and again that there is the problem

of minorities. It has been said again and again that there are the interests of the Princes. Sir, I think that after the reply which Dr. Rajendra Prasad gave to His Excellency the Viceroy, all these remarks are absolultely beside the point. In that reply he made it perfectly clear that if the British Government once declare that they will implement a constitution which is arrived at by agreement between the different Indian peoples, then it will be the business of the Indian people to see that such a constitution is framed. Supposing the Muslim League and the Congress come to an agreement to-morrow and supposing the other important groups accept that agreement and there is an agreed constitution, what guarantee is there that that constitution will be honoured by the British Government? What guarantee is there that that constitution will be actually put into effect?

So long as we do not know that the British Government are really prepared to implement such a settlement on the part of the Indian people, the Indian people will not feel any responsibility in the matter; but, if the responsibility is once placed upon the Indian people and then after that we fail, the British Government can certainly say, and the English people all over the world can say, "Indians were promised that if they could come to an agreement, that agreement we would honour and they failed to come to an agreement". After that, no one could accuse Great Britain of going against the will of the people of India and we shall be laughed out of court at the bar of the world opinion. But if that is not done, it does not lie in the mouth of anybody, however highly placed he may be, to say that Indians have not come to an agreement.

Supposing, I have the power to nominate the representatives of Great Britain and supposing, Sir, I nominate Mr. Neville Chamberlain and Mr. Lloyd George, men who are or have been the Premier of Great Britain and are thereby certainly representatives of England, Mr. George Bernard Shaw, one of the most important Englishmen of to-day, Mr. Tom Gallacher who is the leader of the British Communist Party, Mr. Oswald Mosley, one of the most prominent members in English public life and Mr. H. G. Wells and Mr. Bertrand Russell or Lord Russell as he is called. They are all men with International reputation —they are all men who are honoured not only in their own country but also in all countries of the world. Now, if they were asked to sit round a table and come to an agreement about a constitution for England, I have grave doubts if they could come to a unanimous decision. Therefore, when the British Government chose people in whom Indian people have no confidence, picked out men, if I may use here a harsh term, almost from the dustbin of negligence of public opinion and placed them in a position of responsibility, it does not lie in the mouth of the British Government to say that Indians have not been able to

come to an agreement. I will give only one example. Sir Abdulla Haroon, who was unsuccessful even in an ordinary general election in Sind, was asked by His Excellency the Viceroy to join in the cavalcade of 52—he was one of the members of the cavalcade. The Hon'ble Mr. Allah Bux, who was the Premier of Sind, was not considered fit to be called for an interview when the future destiny of India was being considered. The Premier of the North-Western Frontier Province, Dr. Khan Sahib, was also not called. These two provinces I am mentioning specifically, because these are the two Muslim majority provinces. The Muslim majority in the North-Western Frontier Province is, I believe, 95 per cent. out of the total population and Mr. Allah Bux is the Premier of a province where the Muslim majority is something like 70 per cent. and yet the representative of Sind, when the Viceroy wanted one, was Sir Abdullah Haroon who could not get returned to the Assembly and not the Hon'ble Mr. Allah Bux. Therefore, if we want to talk of an agreement in India, we must know which India it is. Is it the India which represents special interests, particular interests and sometimes even individual interests and it may be that these individuals do not represent anybody but themselves? But let the will of the people be declared and once that is done through a Constituent Assembly elected by adult franchise so that every community is represented, if these elected leaders of the people cannot come to an agreement, then alone it lies in the mouth of the British Government to say, "You are unfit because you have not been able to come to an agreement". Otherwise, it does not lie in the mouth of anybody to accuse us of not coming to an agreement when a Round Table Conference is manufactured with all sorts of variegated personalities, some of whom represent small groups and some of whom represent nobody at all.

Now, Sir, it was said by my honourable friend, Mr. Nur Ahmed that in a constituent assembly like this, the Muslims will be a small group, that they will be about 90 in a House of 360 or 400. Against that, I would say that if the accredited leaders of the Muslim community are represented in a constituent assembly like this and if they demand anything unanimously, it stands to reason that other groups will have to come to terms. I am putting the same thing in another way. Supposing you do not want a constituent assembly, you certainly want a settlement of the outstanding questions between the different communities. Who will represent these communities? Whom are you going to send to repreesnt the Muslims to-day? Mr. Jinnah has a very large number of Muslim supporters. But it may equally be that after the statement which he has issued recently, he may not have the same command even over the Muslim League as he had before. I will give another example. Sir Nazimuddin will please excuse me if for a moment I take a personal case to illustrate my point. There is

no doubt whatever that Sir Nazimuddin is held in high respect all over the province of Bengal; there is no doubt also that there were large sections of the people who looked upon him as their leader and that at a time when Mr. Fazlul Huq had hardly any place in Bengal. The latter could not have any scope for his activities here and had to go to the Central Assembly. Yet, in an election it was proved that the people, at least of a particular locality, preferred Mr. Fazlul Huq to Sir Nazimuddin. I do not question, Sir, the abilities of either of them or their claim to leadership, but in the same way unless we have a constituent assembly, unless there is some way for the expression of the popular will, unless there is an election in some form or other, there is no means to ascertain who really represents the popular opinion.

Therefore, Sir, there are two considerations for us to remember. If we wish to come to a settlement, there must be elected leaders, because we may not recognise the leaders whom the Viceroy might choose to nominate on our behalf. That has been our misfortune in the past. If Sir Abdulla Haroon and Sir Md. Yakub are nominated to be our leaders, I do not know how many members of this House will accept such a nomination. But, Sir, if it be Mr. Jinnah, there may be many who will accept him. It may also be that there will be some like us who will not accept him. Therefore, Sir, as I was saying, some election we must have, and the question arises as to what will be the form of that election? If the majority of Muslims wants separate electorate,—and in the communication of Dr. Rajendra Prasad to the Viceroy it was clearly stated that there may be separate electorates for the Muslims if the Muslims say that they will return their leaders through their own electorate,—and after election these leaders by an overwhelming majority want anything in the communal interest of the Muslims who, in my opinion, are hardly a minority, well, I am sure their interests cannot be overlooked by any constituent assembly. Therefore, from whatever way you look at it, if we want that there should be a settlement of the outstanding questions, that the right of India to self-determination should be recognised, we must have the constituent assembly and, if necessary, through separate electorates. If that is done, I am quite confident that some sort of an agreement will be achieved. In the past, Hindus and Muslims have lived together in peace and even to-day, in spite of occasional quarrels they live on the whole in peace. Some of these quarrels are not communal quarrels at all, but are quarrels which are based on economic questions and sometimes even on personal questions. I think no member of this House can contradict me when I say that a good deal of communalism is nothing but personal interests masquerading as communal interests. Real communalism is not easy, for it means that you must subordinate personal ends to the interest of the community, and this in India will mean national interests, for the interests of the communities are inter-locked inextricably. Hunger and poverty

is the same for everyone and the desire for development, the desire for industrial and commercial expansion is the same for all communities in India. Therefore, Sir, when it is a question of communalism, invariably we shall find that it is a question of the narrow interest of some particular group or individual. If through the adult electorate of a constituent assembly we return our accredited leaders, and if they do not come to settlement, then alone it will be time for the British Government to say "You have failed". But if they can come to an agreement, and I am sure they can, then the British Government must ratify and agree to such a constitution for India. Then and then alone will it be said that Great Britain is fighting for freedom and liberty and the establishment of a new world Order.

Sir, before I conclude, may I quote from a speech which I delivered in Oxford about eight years ago in opposing Lord Lloyd? There, the same sort of situation had arisen. Of course, there was no world war then but the same sort of discussion was going on about the condition of Europe at the time and what the future held in store. And there, in concluding my speech I said that if the British people really want that there should be a Commonwealth of Nations, if the British people really want that there should be freedom and democracy for small nations of the world and that the principle of Self-determination must be applied to India, India would have no objection whatsoever; indeed, India would be proud to be associated in a real Commonwealth of Nations based on freedom and democracy. But such a commonwealth, in order to bring about a real federation of the different races of the world, must cease to be merely British. We cannot have a British Commonwealth of Nations, because it is a contradiction in terms. If it is a commonwealth, it cannot be merely British. If it is British, it cannot be a real Commonwealth.

Sir, I think that the paradox which we are facing to-day is the inevitable development of the situation which existed even eight years ago. All these conflicts arise because there is a British Empire which pretends to be the guarantor of peace and security in the world. So long as the Empire is British, it cannot guarantee the freedom and peace of the world even though it might, so long as it is powerful enough, guarantee the security of the world. Therefore, Sir, I move my amendment and I am confident that all members of this House, irrespective of whatever party they may belong to, including the European members of this House if they really want to ensure their rights to be guaranteed as we want ours, will support my motion.

In conclusion, Sir, I may say that a lot has been said about the aspect of bargaining in a resolution like this. I am not ashamed of bargaining. It is certainly bargaining. The British Government is bargaining; so is the Congress and so are the Indian people. Naturally, they are all bargaining. Can anybody deny that if to-morrow there

s peace in Europe and there is some sort of an honourable settlement between Germany and Great Britain, all these demands of India will e thrown into the waste-paper basket? Can anybody deny that with he solution of the European tangle, the Indian demand will once more o into cold storage till the next burst of world disturbance? Can anyody deny that it is because the British Government is in difficulties o-day that the Indian demand is being considered at all? If that is rue of England, it is equally true of us. And equally, Sir, this is our pportunity. If at this opportunity we cannot unite and we cannot emand the freedom which is our birth-right and which we have lost hrough our own fault, through our own stupidity and through our communal quarrels, we shall stand for ever condemned at the bar of hitsory.

Mr. PRESIDENT: Amendment moved: That for all the words of he resolution which has been moved, the following be substituted, iz.:—

This Council associates itself with the world-wide abhorrence of the ggressive and ruthless methods pursued by the Imperialistic Governents of the world against the smaller and weaker nations and ependencies and reiterates its complete disapproval of the manner in hich India has been made a participant in the war against her onsent.

This Council therefore directs Government to convey to the Government of India and through them to the British Government that in onsonance with the professed aims of the present war, it is essential in rder to secure the co-operation of the Indian people that principles of emocracy and freedom should forthwith be applied to India and her olicy should be guided by her people; and that India should be ecognised as an indepednent nation entitled to frame her own constition through a Constituent Assembly to be elected on universal adult anchise with sufficient and effective safeguards for the recognised inorities and their interests.

I adjourn the Council till 2-15 p.m. to-morrow (Wednesday).

Adjournment.

The Council then adjourned till 2-15 p.m. on Wednesday, the 13th f December, 1939.

Members absent.

The following members were absent from the meeting held on the 12th of December, 1939:—

(1) Rai Bahadur Manmatha Nath Bose.

(2) Maulvi Humayun Reza Chowdhury.

(3) Mrs. K. D'Rozario.

(4) Khan Bahadur Alhaj Khwaja Muhammad Esmail.

(5) Maulana Muhammad Akram Khan.

(6) Mr. H. G. G. Mackay.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Wednesday, the 13th December, 1939, at 2-15 p.m. being the tenth day of the Third Session, pursuant to section 62 (2) (a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Resignation of the President of the Bengal Sanskrit Association.

65. Rai Bahadur BROJENDRA MOHAN MAITRA: (a) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether Sir Manmathanath Mukherjee, President of the Bengal Sanskrit Association, has resigned?

(b) If the answer to clause (a) be in the affirmative, will the Hon'ble Minister be pleased to state—

(i) the date of his resignation; and

(ii) the name of the gentleman appointed as President in place of Sir Manmathanath Mukherjee?

(c) If the vacancy has not yet been filled up, will the Hon'ble Minister be pleased to state the reasons for the delay?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Hon'ble Mr. A. K. Fazlul Huq) (a) and (b) (i) Sir M. N. Mukherjee sent in his resignation on the 25th August last but it has not yet been accepted by Government.

(ii) Does not arise.

(c) Sir M. N. Mukherjee was requested to withdraw his resignation. His reply is being awaited.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state who requested Sir Manmathanath Mukherjee to withdraw his resignation?

The Hon'ble Khwaja Sir NAZIMUDDIN: Government.

Rai Bahadur KESHAB CHANDRA BANERJEE: *With reference to answer (c), will the Hon'ble Minister be pleased to state whether Sir Manmathanath Mukherjee was requested in writing or verbally requested?*

The Hon'ble Khwaja Sir NAZIMUDDIN: In writing.

Rai Bahadur KESHAB CHANDRA BANERJEE: Is it a fact that no such request has reached him yet?

The Hon'ble Khwaja Sir NAZIMUDDIN. I do not think so.

Rai Sahib INDU BHUSAN SARKER: Will the Hon'ble Minister be pleased to state the reasons for which Sir Manmathanath Mukherjee tendered his resignation?

The Hon'ble Khwaja Sir NAZIMUDDIN: I think Sir, Manmathanath Mukerjee himself will be able to do it best. We do not know the reasons.

Rai Bahadur KESHAB CHANDRA BANERJEE: Will the Hon'ble Minister be pleased to state how long Government will wait for his reply?

The Hon'ble Khwaja Sir NAZIMUDDIN: I think, we will send another reminder and if we do not get a reply, we will have to take action.

Rai Bahadur KESHAB CHANDRA BANERJEE: Will the Hon'ble Minister be pleased to read out his letter of resignation?

The Hon'ble Khwaja Sir NAZIMUDDIN: I ask for notice.

Rai Sahib INDU BHUSAN SARKER: Will the Hon'ble Minister be pleased to place a copy of the letter of his resignation on the Library table?

The Hon'ble Khwaja Sir NAZIMUDDIN: I do not think that would be proper.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state the grounds on which Sir Manmathanath Mukherjee tendered his resignation?

The Hon'ble Khwaja Sir NAZIMUDDIN: I ask for notice. The letter is not with me just now.

Mr. RANAJIT PAL CHOUDHURY: Was any reason stated in his resignation letter?

The Hon'ble Khwaja Sir NAZIMUDDIN: I ask for notice.

Mr. PRESIDENT: I expect the Hon'ble Ministers to make some enquiries and come prepared when they answer questions on behalf of any of their colleagues. This question related to a letter of resignation and had the Hon'ble Minister in charge of the Education Department been present, he could easily say whether any reasons were given by Sir Manmathanath. As I have said, the right of putting supplementary questions is a valued right of the members and the absence of the Ministers concerned during the Question hour is, in effect, preventing them from exercising this right.

Corruption in Government offices and courts.

66. Mr. NUR AHMED: (*a*) Will the Hon'ble Minister in charge of the Finance Department be pleased to state if any measures have been adopted by the Government of Bengal to check corruption prevailing in Government offices and courts and among Government servants? If so, what are these measures?

(*b*) Does the Government propose to immediately modify the existing Government Servants' Conduct Rules to incorporate the following:—

(*i*) disallowing acceptance of *dalies* in any form;

(*ii*) forbidding Government officers from accepting entertainments and parties except on the eve of retirement from Government service;

(*iii*) forbidding free admittance of Government servants to places of entertainments and public places of amusement except on public duty;

(*iv*) prohibiting use of borrowed cars and other conveyances; and

(*v*) emphasizing payment for supplies of provision by the Government servants personally?

(*c*) Does the Government desire to introduce the practice of maintaining complaint books in all Government Civil, Criminal and Revenue Courts and in all other Government offices where the subordinate staff and peons come in direct contact with the public, in order to prevent corruption? If not, why not?

MINISTER in charge of the FINANCE DEPARTMENT (the Hon'ble Mr. Nalini Ranjan Sarker): (a) The hon'ble member is referred to the reply given to clauses (b), (c) and (d) of his question No. 34 asked at the meeting of the Council on 9th May, 1939.

(*b*) No such proposal is now under consideration. The existing rules appear to be adequate but I am prepared to consider whether any modification is necessary.

(*c*) No.

Training in air navigation.

67. Mr. NUR AHMED: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state what steps he has taken to make the people of Bengal air-minded?

(*b*) Will he be pleased to state if he has prepared any scheme for the training of students in flying?

(*c*) If not, does he intend to make necessary arrangement for the training of students in flying, in Bengal? If not, why not?

(*d*) Is it a fact that the United Provinces Government has opened a training class for this purpose and bears half the cost incurred for all females joining such a class?

(*e*) If so, does the Government of Bengal propose to provide similar facilities in Bengal? If not, why not?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): (*a*) to (*c*) I would point out that aircraft, air navigation and the provision of aerodromes come under the jurisdiction of the Government of India. In furtherance of the policy of encouraging persons to learn and practice the art of flying, Government of India gave financial assistance to the Bengal Flying Club in the form of a subsidy. Payment of this subsidy is based on the number of aircraft maintained and on the number of pilots trained. Government of India also maintain aerodromes and landing grounds at the Dum Dum air port, Chittagong landing ground, Asansol landing ground and Dacca landing ground.

So far as this Government is concerned, landing grounds are maintained in a number of districts and the possibility of granting scholarships for the training of Bengalis as aviators is under consideration.

(*d*) It is understood that the Government of the United Provinces have agreed to bear half the cost of the training fees of 12 persons nominated by Government for training at the Flying Club in that Province. Women candidates are eligible for participating in the scheme.

(*e*) The matter is under consideration.

Causes of Floods in Chittagong District.

68. **Mr. NUR AHMED:** (*a*) Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state if he has made any enquiry into the causes of recent floods in August last in the district of Chittagong?

(*b*) If so, will he please state what are the real causes of such flood?

(*c*) Is it a fact that the construction of Karnafully bridge near Kalughat with insufficient openings, and the *bund* in the Howda river are the main causes of this extraordinary flood; if so, has he taken or intends to take any steps to remove these defects in order to prevent the recurrence of such floods in future? If not, why not?

(*d*) Is it a fact that the villages lying around the Gomordhan *beel* were very much affected by the flood? If so, what steps does the Government intend to take to provide rapid and easy discharge of rain-water from this *beel*?

MINISTER in charge of the COMMUNICATIONS and WORKS DEPARTMENT (the Hon'ble Maharaja Srishchandra Nandy, of Cossimbazar): I am making enquiries and will give the information desired in due course.

Lead-poisoning among the Press workers.

69. **Khan Bahadur NAZIRUDDIN AHMAD (on behalf of Mr. K. C. Roy Chowdhury):** (*a*) Will the Hon'ble Minister in charge of the Commerce and Labour Department be pleased to state whether it is a fact that in order to detect lead-poisoning in a person, examination of his stools, urine, sputum and blood is indispensible?

(*b*) Is it a fact that about 40 per cent. of the workers of the University Press and Prabartak Press are suffering from lead-poisoning? If so, what steps have been taken for their examination? If not, why not?

(*c*) What are the last dates on which they underwent medical examination for the detection of lead-poisoning and the nature of examination?

(*d*) What was the result of examination?

(*e*) What is the percentage of lead-poisoning that was found?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Hon'ble Mr. H. S. Suhrawardy): (*a*) I am so informed.

(*b*) I have no information about any cases of lead-poisoning in the presses named.

(*c*) to (*e*) Do not arise.

Mr. PRESIDENT: Order, order. Discussion on the non-official resolution on War will now be resumed.

Resolution on the War.

Dr. RADHA KUMUD MOOKERJI: Mr. President, Sir, I rise to support the amendment which has been moved by Mr. Kamini Kumar Dutta on the ground that in my opinion it gives the most complete and comprehensive expression to the views of the Congress on the subject of this resolution.

In this connection, I may say that there are certain other minor amendments proposed by Mr. Lalit Chandra Das and also by Prof. Humayun Kabir which also come very near the official Congress amendment. But in my opinion the official Congress amendment is the best expression of the Congress views on this very important subject.

I should like to make clear at the outset that certain aspects of the views that have been very strongly held by the Congress on this very important subject have not been correctly understood by the public. In the first place, it should be understood that the Congress is wholeheartedly opposed to the system for which Herr Hitler stands—the system of violence which militates against India's ingrained and traditional spirit of non-violence. It is, therefore, a mistake to suppose that so far as the ideals which animate England and her Allies in the prosecution of the present War are concerned, there is any difference between the Congress, as representing India's opinion, and England. I should also make it quite clear that in the opinion of the Congress, the subject that has been raised is not yet beyond a satisfactory settlement. At the present stage, it would be wrong to assume that the Congress has barred the door against any kind of compromise. I may say that this matter is still pending settlement and therefore I do not like to say anything at this stage which may even remotely make a satisfactory settlement difficult in any way.

I wish, therefore, clearly to say, as the ex-Prime Minister of Madras the other day stated in his speech which I had the privilege of listening to in Delhi, that the case was like that of a tiger pouncing upon a friend and that friend calling upon another friend to help him out of his difficulty. Another imagery may also be employed in this connection, namely, that when your neighbour's house is on fire, would you not unconditionally rush for the extinction of that fire, so that it may not spread and lead to a world conflagration?

Well, Sir, so far as India is concerned, India is fully prepared mentally and morally to do her utmost for securing triumphant conclusion to a war that is fought on the highest possible ideals. I am, therefore, somewhat surprised that my talented friend, Prof. Humayun

Kabir, somewhat let himself go yesterday in expressing definitely a doctrine which was first promulgated in the British Parliament by the late Mr. Parnell when he declared that England's adversity was Ireland's opportunity. So far as the Congress is concerned, Mahatama Gandhi, its spokesman, has emphatically declared that the attitude of the Congress does not correspond to the attitude to which one of our colleagues here gave expression yesterday. India does not like to think in those terms. India does not at all like it to be stated and considered that she thinks that England's difficulty should be exploited as India's opportunity.

Now, when I have made the position quite clear from the psychological or rather intellectual point of view, when I have demonstrated clearly that there is no difference between India and England so far as the ideals that are animating the Allies in the war are concerned, I can only beg leave to state that the Congress feels that there are certain difficulties in the way of India being enabled to throw herself heart and soul into the service of that cause which is, practically from an idealistic point of view, common both to India and to England. If England were to say to India, "Look here England's battle is India's battle; we Englishmen are fighting a battle for freedom which is as much India's battle as of any other part of the British Empire", will not India be entitled to turn round and ask, "How are you going to make the Indians feel that England's battle is their battle also? How are you going to make Indians feel that they are called upon to join this war in the same spirit of service, enthusiasm and patriotism in which Englishmen themselves are rendering service for the prosecution of this war?" There should be no kind of intellectual fallacies in this matter. It is a question of heart, it is a question of mental and moral outlook, it is a question of psychology; and unless the psychological factor is first dealt with, you cannot expect that the heart of India will be spontaneously evoked in favour of the British cause. England must try to understand whether it is really possible for Indians to sincerely feel that they, like Englishmen, are fighting a common battle. Some time back "The London Times" tried to give a reply to the Congress position by saying that the Congress has interpreted the British war aims in a way which was not intended and which was beyond the limits of the British statement on the subject. "The London Times" pointed out that the British war aim was not the extension of democracy but a far simpler aim, namely, the annihilation of what may be called Hitlerism, the annihilation of the system whereby violence or brute force rules the International world, and therefore "The London Times" pointed out that ethically all countries that are wedded to a spirit of peace and non-violence must *ipso facto* join the Allies in their war against violence as an international principle. Well, that was the reply of "The London Times" to the Congress statement. I am afraid,

the reply of "The London Times" has not been adequately noticed in India, but there it is. "The Times" further pointed out that England was not out at all to extend democracy all over the world, England had no quarrel with the domestic ideologies pursued by different States in the world, England had no quarrel with the communistic system of Russia or the system that has been established in Nazi Germany or the dictatorship of countries like Italy. England's opinion is that she will be perfectly ready to allow these countries to go on unfettered with the pursuit of their own political ideals and social schemes. What the Allies were immediately interested in is the annihilation of a primary evil of politics, namely, the evil that flows from a system of unprovoked aggression and violence. I am afraid, "The London Times" here has, as usual in all its reference to India, indulged in a bit of verbal quibbling. If what is aimed at is the annihilation of a system of violence, how on earth are you going to accomplish that feat unless it is assumed that a system of violence can also go with democracy. If you carry the analysis of ideals deeply, you will find that a system of violence is equivalent to a system by which Russia or Germany or Italy is being governed to-day. That is to say, violence is inseparable from the conception of the Totalitarian States or dictatorships of the kind that are found operative in such a large part of Europe. Therefore, to aim at the extinction of violence is *ipso facto* to aim at the strengthening of those forces which operate in the opposite direction, viz., the forces of freedom and democracy whereby alone the forces that are generated by dictatorships can be checked. Therefore, I say that India and the Congress are perfectly right in stating that unless the Allies state clearly that they are out to strengthen the forces of freedom and democracy all over the world, they cannot hope to accomplish the object they have in view. It would be impossible to check the dictatorships except by a combination of the democracies all over the world. And in that connection, if an honourable Anglo-Indian alliance could be established on the firm foundation of democracy, that would be the greatest international force which no other combination of powers can ever hope to reckon with. This is, therefore, the Congress reply to the point of view advanced by "The London Times".

Now, I come to consider the details involved in the resolution that has been moved by Mr. Kamini Kumar Dutta, the leader of the Opposition. The first point that has been raised here is this. What the Congress wants is a clearer declaration of the Allies' war aims. The Congress does not believe that the war aims have been finally declared by the British Government. The authorities on both sides are still considering what might be the suitable declaration of war aims at the present moment. You may say, "what is there in a declaration? There are clearest declarations possible on the subject. There is no sort of doubt as to the ultimate destiny of India and

so forth." Well, as an humble student of history, I may state that the history of these occasional declarations on the subject of India's political destiny is not very hopeful. It was left to the august person of the late King-Emperor of hallowed memory who had used these fateful words in the year 1921 in inaugurating the Montford Constitution. His Majesty's words were: "For years patriotic and loyal Indians have dreamed of Swaraj for their motherland." Mind you, it was left to the King-Emperor also to have first used the word "Swaraj" in connection with India. "To-day you have the beginnings of Swaraj within my Empire and widest scope and ample opportunity for progress to the liberty which my other Dominions enjoy." And then, these words of His Majesty were immediately followed by a revised Instrument of Instructions to the Governor-General of India in which the following words were included:—

"For, above all things, it is our will and pleasure that the plans laid by our Parliament may come to fruition to the end that British India may attain its true place among our Dominions."

Now, this was the position in 1921. Then, as usual, all these high declarations of policy were being sought to be whittled down and explained away so that there arose a kind of political tension in India which made the then Viceroy of India, Lord Irwin, now Lord Halifax, to undertake a journey to England to get from Parliament a fresh declaration on the subject. Parliament was, therefore, induced by Lord Halifax to repeat the following declaration, viz., "It is implicit in the declaration of 1917 that the natural issue of Indian constitutional progress, as there contemplated, is the attainment of Dominion Status", and when this Parliamentary declaration was made in 1931, Mr. Stanley Baldwin, then the Prime Minister of England, further declared in his usual clear, unambiguous terms, "We have promised India in our declaration responsible Government." Now, what is the year of this declaration? 1929, mind you. What happened then? Well, there was a set-back as regards the tendency towards which all these declarations were directed. In this connection, I cannot but quote, because some of my predecessors have already referred in glowing terms to the contribution that was made by India to the prosecution of the last war, Mr. Winston Churchill, who was then the Dominion Minister. In 1921, he delivered himself of the following oration: "We all know how tremendous was the contribution which India made in the war in 1919, how when there was no other means of filling a portion of the Front by men from any other part of the whole world, there came the few splendid Indian Corps who were almost annihilated in the mud and the shell fire of that terrible winter in Flanders. We owe India a deep debt and we look forward confidently to the days when the Indian Government and people would have assumed fully and completely their Dominion Status."

That was the history in 1929. Now, I will just cut short this history by saying that at the time when the present Government of India Act of 1935 was being debated hotly in the House of Commons, Sir William Page-Croft rose and pointed out that he was very much gratified that Sir Samuel Hoare had no conception of India ever growing into a democracy. Where do we stand now? All these declarations were given the go-by in the last scheme so much so that the present Government of India Act has not a word about Dominion Status or anything of the kind. Therefore, we say that so far as the present war is concerned, India is fully ready, mentally and morally, to be able to put forth her highest and best efforts in aid of the war. But the past history of these declarations of the war aims of England and her allies is full of misgivings. Therefore, we say that in 1939, there should be a more definite and unequivocal declaration of what England is going to do by India. Pray, remember that the Congress does not want an instantaneous change-over to a full-fledged democracy overnight. What is wanted is that you must say clearly that India must be declared a free State automatically after the war. The Congress is fully prepared to allow the necessary time which would be required for the completion of those legal processes incidental to the establishment of India as a full-fledged free State or democracy in the world. I, therefore, venture to think that there is not a single Indian here who would be disposed to disagree with what I have stated. Please remember that the issue that has been raised by the Congress has been endorsed by eight Provinces of India, which means that two-thirds of the entire population of India stand to-day committed to this demand that England must come forward with an unequivocal declaration as to the immediate destiny of India that should follow as a consequence of this war. And India has a right to expect this declaration. I do hope that the very comprehensive and reasonable amendment that has been put forward on behalf of the Congress will be accepted by every member of this House and that we should be able to send up a unanimous expression of views on this most important national issue which is fraught with so much consequence not merely to India but to the entire world. I, therefore, hope that there will be absolute unanimity in passing this amendment.

Mr. H. C. A. HUNTER: Mr. President, Sir, I rise to support the resolution moved by Rai Surendra Narayan Sinha Bahadur as amended by Rai Keshab Chandra Banerjee Bahadur.

That the British dislike war must, I think, be patent to any student of modern politics. Time after time in recent years the gauntlet of war has been thrown down to them. Time after time they have refused to take it up—often at heavy cost in prestige and sometimes even at some loss of material interest and self-esteem. Instead they have sought by peaceful means to achieve and assist in an honourable

settlement of others' claims. I ask you to remember that in all these cases their support has been given to the weaker side—in all cases against aggression.

In their negotiations, however, the British Government have been faced with Germany's constantly broken pledges and the whole world has at length been forced to realise that Germany is following a ruthless policy of mendacity and aggression. The pledge of non-aggression has again and again been followed by aggression.

What happened regarding Austria and Czechoslovakia happened to Poland too. The differences which existed between the Germans and the Poles could have been undoubtedly settled by negotiation. The Poles were willing—anxious—to negotiate. But the tenor and character of the conditions of negotiation which the Germans sought to impose, made it apparent that they wanted no settlement by negotiation and the invasion of Poland was started abruptly and ruthlessly by enormous forces already massed on the frontier.

All these facts are known to the honourable members of this House. I merely recall them to invite attention to the peace-loving British outlook and her championship of comparatively small and weak countries.

Great Britain is at war to-day by virtue of her obligations to Poland, to ensure the peaceful independence of small nations, to reinstate those nations so grievously overrun, to end, if she may, international racketeering and to curb Nazi aggressiveness by which the independence not only of other small European countries but of the Dominions themselves, is threatened.

This war is not an Imperialist War: it is a war of sacrifice. Whatever the result, the people of Britain will be saddled—perhaps for generations—with its burdens. They will have to bear an immense load of debt; the loss, disorganisation and disintegration of her trade, and above all the loss of some of the flower of her manhood.

If the Allies win, Britain will obtain no benefit, not an acre of territory. If the Allies fail, then the whole fabric of the British Commonwealth will surely collapse and with it India's political hopes.

To the support of Britain in her struggle, the Dominions have already rallied in their forthright way. Nor have Indians been behindhand in expressing their support; and heartening messages have been framed by men like Sir Sikander Hayat Khan, the Chief Minister Mr. Fazlul Huq, the Princes and Mahatmaji himself.

Emphasis was laid in the speeches of many of the honourable members of this House yesterday on the fact that India had not been consulted as to her participation in the war. Now, on the point of this allegation, I submit, His Excellency the Viceroy would have been

failing in responsiveness to the sentiment of India clearly expressed both beforehand and at the outbreak of war had he not given due attention to the volume of public opinion so weighty in both quality and quantity. What an outcry would have followed if he had not taken the steps he did for the protection of this country!

Would India have tolerated in her midst active enemy agents destroying by sabotage the plants on which her war production rests? Would India have tolerated delay in talk and discussion among politicians?

What would India have said, and rightly said, if the essential precautions had not been taken, if guards had not been posted in the gateways—in Suez and at Singapore?

What greater derelication of duty to India could have been made?

These steps were necessary for our protection: when war was inevitably impending, and when war began.

Would the members of this House have preferred to talk?

Let there be no mistake. Whatever play with words and phrases politicians may make, the people of India know that what was done was right, and when the war broke out they showed it.

It is unfortunate, I think, that this occasion should have been considered a necessary one on which to raise constitutional issues. For, it may arouse suspicion in the minds of those who don't know Bengal that the sympathy the House seeks to express with down-trodden nations is not really sincere. The suspicion may be aroused that the House merely wishes to take advantage of Britain's preoccupation in going to the succour of Poland, to press political demands. In the minds of those who do not know Bengal, the suspicion may be aroused that the sympathy they express is subordinate to and conditional upon the fulfilment of the demands they prefer. The impression may be created that they seek to sell their sympathy with the result that it would automatically lose its specie and become mere lip-service.

I had some difficulty in following my honourable friend, Mr. Lalit Chandra Das's rather quickly delivered speech (laughter) yesterday, but I believe he made some reference to "mercenaries". I sumbit that his resolution may be mistaken for a proposal to sell India's support which would itself come within the scope of the term "mercenary". The effect of some of the conditional, restrictive and grudging amedments before us may possibly be read to mean that the willing support of Bengal is only to be purchased.

The original motion and the first amendment to it, I think, reveal the true spirit of Bengal—responsive and generous. They recognise a justifiable war in a good cause; they eloquently express indignation at the wrongs done to the weak, they speak of support to the Throne

and to the country seeking to redress those wrongs. Those are messages which Bengal is proud to send and His Majesty's Government will be as proud to receive. Those are the messages which it becomes a Council of gentlemen to send.

I wish it were possible to restrict our resolution to that, to restrict it to the admirable motion and the equally admirable first amendment, so that this House could be the only Council in India to send a message of loyalty, co-operation and support unqualified by reservations. I hope it may be possible for this Council, unfettered by political considerations for the moment, to unite in revealing to the world the true heart, the true feelings, the fine spirit that animates Bengal.

I realise that Bengal is one of the few provinces of India where a Moslem majority exists. I realise also that since Congress Provinces have qualified their support in a certain manner, Muslims must make their standpoint clear. But I submit that is a matter which may be decided in another House through any motion which the Government might put forward. This Council where no Government motion is before us for consideration, has a freer hand. I appeal that we take advantage of this opportunity to show the fine spirit of genuine and disinterested sympathy which all who know Bengal know she feels.

There is one point common to the motions and amendments of Messrs. Kamini Kumar Dutta, Lalit Chandra Das and Humayun Kabir, on which I would like to comment. In all of them there is a reference to Indian nationality. I submit the structure of these amendments is based on a false assumption. It is just as absurd to speak of the European nation; it simply does not exist in either case. In fact, I dare say that both ethnographically and linguistically India presents an even greater variety than Europe. It is true that peoples of different origin, different languages, different religions even can form a nation; but each variant makes this the more difficult. One thing alone can form a nation; that is common efforts, common reverses and sacrifices, common acnievements and triumphs. That test of common experience is the only crucible in which the mechanical mixture of peoples may be transformed into the chemical compound of a nation. I would ask the House to realise that the Constitution suitable for India is the constitution suitable for a Continent. Our efforts must be concentrated in co-operating in framing a Constitution which must within itself contain the reservations necessary to unify the diversities. In this way, it must be different from and transcend a constitution suitable for a homogeneous people. In reality, our object must be to frame a constitution for what may be termed a League of Indian Nations.

The germ of this idea is embodied in the much-abused but far-sighted Government of India Act and perhaps it is not sufficiently

widely appreciated that the existing Constitution is, in promoting this conception, not only different from but far ahead of that of any other country in the world. This conception transcends any previous political conception of co-operation between different units and points the way to a new aspect of the art of human government which, if it could be attained in Europe, would be one of the greatest possible bulwarks for the safety and progress of civilization.

It will be seen then that this constitution which we spurn and condemn is, if properly regarded, an original contribution to the art of government; and that India, so far from lagging behind, has given a lead to the world in methods by which civilisations may be advanced and preserved. It is, I believe, this noble and exalted conception which has inspired His Excellency the Viceroy in his untiring efforts to promote the spirit of co-operation between all parties in India.

Sir, we are to-day involved in a way which threatens the very existence of self-governing Dominions. If we lose, then Indian hopes and aspirations will be doomed. If we win with the full co-operation and support of India, then not only will India be secure from aggression but she will have experienced some of that community of effort, of sacrifice, of achievement by which alone Nationality may be attained.

The Hon'ble Mr. NALINI RANJAN SARKER: Sir, I rise to speak on this resolution to give expression to my own views. I am not speaking on behalf of the Government. The Hon'ble the Chief Minister and my other colleagues have given me permission to express my views on non-official resolutions on the war and on a subject which does not come within the ambit of our provincial responsibility.

Sir, I find it difficult to wholly support or to entirely oppose any of the resolutions or amendments which have been brought forward. Some of the resolutions, namely, the resolutions tabled by Rai Bahadur Surendra Narayan Sinha and Rai Bahadur Keshab Chandra Banerjee emphasise practically one or two aspects of the matter only. In their respective spheres as far as they go, they may be accepted or rejected. Some of the resolutions fail to give a complete portrayal of either the present situation or the present feelings and attitude of the country; while certain others have given vent to the idealism and aspirations of the nation, but are not in tune with the exact realities of the situation. A resolution merely assuring help and support to the British Government in the present war sounds rather like a platitude. Great Britain's war aims, as declared at the commencement of the war, considered along with the difficulties of India's own position in the event of attack by an enemy power, would seem to provide a justification for offering help and support to Britain in the war. But much has also happened in India since the declaration of the war, and India's own political problems and aspirations at present are such that in supporting Great

Britain's war aims India cannot but think of those problems and aspirations at the same time in spite of Mr. Hunter's pleading. To divorce the one from the other is both a psychological and a political impossibility. The present war, as Great Britain has clearly declared, is different from other wars in many ways. Great Britain's main aim is to bring about a new Order in which nations can live and develop in peace and security and in which their right of self-determination would not be at the will and mercy of power-intoxicated dictators. It is only natural that India, while pledging her support to Great Britain in the establishment of that Order, should press for the application to her case also of the principle for the triumph of which nations and individuals are asked to make such large sacrifices to-day. In the circumstances, a resolution which only enjoins support to the British in this war but is silent about India's position and aspirations does not truly represent the mind of the Indian people. Rai Bahadur Keshab Chandra Banerji's resolution, for example, asks us to stand by Britain in vindication of the principle of democracy and stops there; it is interested in the triumph of democracy in the world: an object with which all shades of opinion in India would agree, but it does not care to press for the application of the principle of democracy to India herself.

The resolutions tabled by Messrs. Kamini Kumar Dutta and Humayun Kabir, no doubt, do not suffer from this deficiency. Although the former is rather vague in many respects, both these resolutions have stressed Indian idealism and Indian aspirations. It is also possible to agree with and accept some of the sentiments they express, but they appear to suffer from the defect that their authors have somewhat lost sight of the realities we have to reckon with. That Britain would declare India to be an independent nation seems to me a somewhat forlorn hope under the existing conditions, specially when one considers how reluctant the British Government is about assigning any definite date even in regard to the introduction of Dominion Status, their declared goal for India. Moreover, Dominion Status, as interpreted in the Statute of Westminster, is really independence as will be clear from the case of the Irish Free State; and if we attain Dominion Status, we will have virtually attained independence. There is no need or point to press for complete independence, at least under the present circumstances, if Dominion Status as interpreted by the Statute of Westminster can be achieved. Both the Congress and the Muslim League, though having independence as their goal, will, I am sure, be also satisfied with Dominion Status as defined in that Statute. Considering India's military position, her trade requirements, her past associations with and obligations to Great Britain, it could also hardly be gainsaid, that Dominion Status appears to be more in keeping with and much more helpful to her in her present

position than complete independence. In a world where weaker States and nations appear to be in constant danger from the greed and ambition, political as well as economic, of the more powerful States, it seems to be much more advantageous for India to be a part of the British Commonwealth of Nations than to go out of it in the prevailing conditions. For all these reasons, it strikes me that it is much the more practical course to demand a definite assurance regarding the attainment of Dominion Status than to ask for a declaration of independence. If it is the method of negotiation and agreement that is to be pursued, Great Britain could much sooner be made to agree to Dominion Status than to a declaration of complete independence.

India is a vast country and I would not minimise the difficulties of framing a constitution for India. But those difficulties should not be placed in the forefront and shown as an obstacle to the attainment of India's due political status. To make a settlement of these difficulties a condition precedent for the attainment of Dominion Status is really to argue in a vicious circle. Experience in the past has amply proved, specially at the Round Table Conferences, that so long as a third party remains the arbiter of differences, there is hardly any incentive to compose the differences. India's political status must not therefore await and be conditional upon the composing of differences. Dominion Status will define and clarify the political relationship between Great Britain and India. So far as special interests are concerned, whether of Great Britain or of India, these can be settled by mutual negotiation and provided for in a special treaty. When these are settled, the nature, character and form of the future Government might well be left to India as her sole concern and should be settled in India and by Indians. It would naturally be the earnest endeavour of Indian leaders and of all who have the good of the country at heart to compose communal differences and to adjust minority interests, but they would resent this being made a condition precedent to the attainment of Dominion Status by India, and they cannot also properly undertake the task unless and until the responsibility is entirely left to them. It must, however, be made quite clear that while all efforts should be made to secure the largest measure of agreement for the constitution, with a careful eye to the interests of recognised minorities, complete agreement would always be impossible. The constitution has to be based on the greatest common measure of agreement, subject of course to adequate safeguards for the fundamental rights of individuals and of the recognised minorities.

For framing the constitution, the election of a Constituent Assembly has been suggested. The implication of a Constituent Assembly is that its powers must be plenary and not open to challenge by any other

authority, and in order to invest its decisions with legal sanction ratification by a foreign authority is not necessary: what the Constituent Assembly decides is final. But constitutions framed on the basis of Dominion Status have to be ratified by the British Parliament. Even if this were agreed to as a matter merely of formality, it has to be seriously considered whether in a vast country like India the election of a Constituent Assembly for framing the constitution is a practicable proposition. The calm deliberation that is necessary for the framing of constitution would not perhaps be easy to achieve in such a Constituent Assembly. I would rather suggest the adoption of a somewhat different machinery. I am elaborating this suggestion presently.

The machinery I would suggest is an *ad hoc* body composed of members elected by the provincial legislatures on the basis of proportional representation. This body will take up for settlement with the British Government all problems relating to the Army and the Navy, the Services and the public debt, etc., of this country. The *ad hoc* body will also attempt to bring about an agreement between the major communities, political parties and other important interests, including the British interests, for the purpose of framing an agreed constitution. Failing, however, such an agreement, it will draft a constitution representing the greatest common measure of agreement, and providing in all cases sufficient and effective safeguards for the protection of the fundamental rights of recognised minorities. This constitution should then be ratified by a National Convention composed of all the members of all the provincial legislatures. If this scheme be made an issue in the next general election, the wishes and approval of the electorate will also have been ascertained and obtained. Australia, Canada and the Irish Free State,—all framed their constitutions themselves on similar lines. The question of the relation with Great Britain on the basis of Dominion Status was settled by negotiation with Great Britain, but the actual framing of the constitution was undertaken in the respective countries by the people of those countries themselves.

Some of the resolutions on war have expressed the keen disappointment of India at the pronouncements of His Majesty's Government and His Excellency the Viceroy in reference to Indian aspirations, and regret that India has been made a participant in the war without obtaining her consent. These are feelings felt almost universally in India. The pronouncements regarding India in particular have caused keen disappointment to Indian opinion, and there appears to be some reason for this. At the commencement of the war, His Majesty made a very dignified announcement, in which, among other things, he said—

"We are called with our Allies to meet a challenge of a principle which, if it were to prevail, would be fatal to any civilised Order in the world. Such a principle, stripped of all disguise, is surely the mere

primitive doctrine that might is right, and if this principle is established throughout the world, the freedom of our country and the whole British Commonwealth of Nations would be in danger. But far more than this, the people of the world would be kept in bondage and fear and all hopes of settled peace and of security, of justice and liberty among nations would be ended. This is the ultimate issue confronting us."

The same day the Viceroy in a message to the people of India urged them to make their "contribution on the side of human freedom".

Very soon however the British Prime Minister restricted the scope of the war aims to Europe and then to the Allies only. For, speaking on September 20, Mr. Chamberlain said—"Our general purpose in this struggle is well known. It is to redeem Europe from the perpetual recurrence of the fear of German aggression and to enable the people of Europe to preserve their independence and liberty".

On September 26, Mr. Chamberlain further narrowed down the scope of the War aims when he observed—

"Never have our people been more united or more determined. They are resolved to rid themselves once and for all of the perpetual threat of German aggression of which Poland is only the latest instance."

On top of this came the pronouncement of Sir Samuel Hoare in which he was reluctant to assign any definite time or date for the introduction of Dominion Status. Sir Samuel instead referred to the Preamble of the Act of 1919 and the pronouncement of Lord Irwin in 1929. This is a circumlocutory process of reminding India that the British Government have not forgotten that they are pledged to grant Dominion Status to India "in the fulness of time"; or, in other words, an admission that the present British Government are not prepared to say when they might be pleased to apply to India the principle for the triumph of which they are fighting in Europe and for which India was asked to make her contribution. The references to the Preamble of the Act of 1919, which is extremely vague, and to the pronouncement of Lord Irwin, which India understood and accepted in one sense and which at the Round Table Conference was interpreted by the British Government in a different sense altogether, may naturally rouse misgivings in India.

And it is not very unreasonable if after the experiences of the past, Indian opinion or any important section of it, should press for an unequivocal pronouncement regarding the British Government's intentions, and an assurance that the principle of democracy and self-determination, for which Great Britain is fighting, would be applied

within a definite time to India as well, before India lent her enthusiastic co-operation in the prosecution of the War. There was yet another consideration which gave rise to misgivings in the Indian mind. There is an apprehension among a considerable body of opinion that termination of the war is not a time favourable for grant of concessions. A power achieving victory is probably not in a mood to offer concessions. India has had some experience of this after the termination of the last war. For all these reasons, although I personally still have the faith that better political sense will prevail in Great Britain, and that after the War she will actively assist in the attainment of Dominion Status by India, lest she should so alienate Indian sympathy as to lose India altogether, yet I cannot say that those who make an unequivocal assurance regarding India's political status a condition for co-operation have no justification at all for taking up that attitude. (Cries of "Hear, hear.")

Begum HAMIDA MOMIN: Sir, I rise to support the resolution moved by Mr. Nur Ahmed.

Sir, the manner in which the Nazi and Soviet aggression is spreading all over Europe and wiping away the small Powers one after the other has become a real menace not only to Europe but to humanity all over the world. Sir, the present-day war is no war of man power, but it is a war of machines and chemicals. It is a test of the superiority of a nation, of its achievements in science and mechanicism and this again is not confined to the battle-field only, but its devastating and gruesome effects come upon the civilian populations including the women and children.

Sir, recently whilst I was attending a course of the A. R. P. lectures, I got an idea of the injuries and sufferings that can be inflicted on people outside the war zone and it took away my breath. Sir, this war is an unrighteous war, and it is everyone's duty not only to condemn it but to do his or her utmost to crush Hitlerism once for all. We must therefore give our wholehearted support to Britain and her Allies in bringing this war to a successful end.

The real question however for consideration is the manner in which we can render this help most effectively.

We, the women of Bengal, ought to organise ourselves and do our bit in this matter under the guidance of those who have got experience of such organisations. This we have already started to do. But in spite of our intentions and efforts, we can do very little to help the prosecution of this war. Real help must come from the men. Situated as we are, it is not possible for Bengal to send a big army to the field however much we may desire it. That we cannot do so is not our fault. There is no lack of enterprise or will in our young men, but we cannot expect them to feel much enthusiasm on account of our physical and

political drawbacks. They (men) cannot feel that comradeship which is essential in such a case and their want of training which is beyond their control makes them unfit to give effective assistance.

It is not too late yet. It is up to Government to establish a real Bengal Army and to give them efficient training for active service. Days of creating mock regiments and eye-wash training are over.

Sir, it is not my desire to discuss high politics about Dominion Status and future position of this province but what I would insist upon is the establishment of a real military department in Bengal and establishment of a real army which, in my opinion, is a condition precedent to either independence or Dominion Status for India. Sir, how long are we going to be humiliated by being told that the Bengalis are not a martial race and that we must for ever look to north and west India to protect us? It is the legitimate expectation of every woman in Bengal that India should have Dominion Status. I would go further in my wish that Bengal as a province should have dominion status and should not be dependent on any other province. We want that the establishment of Dominion Status should not be deferred any longer. We have had enough of round table conferences and enquiries. Time has come when this question cannot be put off any more. I do not wish to bargain that Dominion Status must come. This is a righteous aspiration of every woman of India and I do hope that England will not linger over this question any longer.

Raja Bahadur BHUPENDRA NARAYAN SINHA, of Nashipur: Sir, at the outset I must congratulate my friend, the Hon'ble Mr. Sarker for the nice speech he has delivered just now. As a matter of fact, he has voiced, if I may be permitted to say, the sentiments of the majority of the people of Bengal. Though I fully agree with some of the points that he has raised, I beg to differ when he said that the resolution of my friend, Rai Bahadur Surendra Narayan Sinha, and the amendment of Rai Bahadur Keshab Chandra Banerjee, were one-sided. I do not think they are one-sided. In the present state of things, that resolution is one which we want just now. (Cries of "Hear, hear" from the European Benches.)

Sir, while I rise to support the resolution so ably moved by my friend, Rai Bahadur Surendra Narayan Sinha and amended by Rai Bahadur Keshab Chandra Banerjee, I heartily endorse all the sentiments that have been expressed by them. Personally, I feel much gratified at being afforded this opportunity to give vent to our feelings in such a matter.

A grave crisis has undoubtedly arisen for our beloved Majesty the King-Emperor and his people, owing to the declaration of hostilities in Europe. At this supreme juncture which threatens the freedom not only of individual countries, but is also jeopardising the

entire fabric of civilisation, our duty to His Majesty's Throne and Person ought to be clear. We must stand by Britain and resist the policy of domination by force with which our King and his country are being threatened. No Indian should desire in the very interests of his own country that England should be worsted in any way in this struggle.

God forbid, if England and her freedom are adversely affected, the prospect of India's brighter future will be gone. India may then have to start a new chapter of slavery under another alien domination. Our natural inclination should, therefore, be to array ourselves and cast our sympathies on the side of England and her allies. We have got to declare unequivocally our hatred for and hostility towards Nazi tyranny and our preparedness to undergo any amount of sacrifice for resisting them in order to make the world safe for freedom and peace. It must not be forgotten in this connection that the Congress Working Committee has unhesitatingly condemned the wanton aggression of Nazi Germany against Poland and has sympathised with those who endeavour to give it a blow. Likewise the Working Committee of the National Federation of India has approved of the declaration of war on the part of Britain to withstand the ruthless invasion by Germany of Poland and has appealed to the other political parties in the country, so that the country is left in no doubt as to its duty in the present crisis, which is definitely to range itself on the side of Britain. That Working Committee has also emphatically declared that support is to be given to Britain at the present moment in an ungrudging and unconditional way. Similiarly, the Hindu Mahasabha has resolved that the task of defending India from any military attack is of common concern to the British Government as well as to Indians themselves. Again, the Calcutta citizens under the presidency of their Mayor have resolved whole-heartedly to co-operate with the Government and to resist the menace of Hitlerism which threatens the civilization of the entire human race. The Muslim League has also in unequivocal terms placed the co-operation of the Mussalmans in India in these trying times on the side of England. Similarly, the Indian Princes have offered their services and wealth in the cause of the King and his country.

The people of Bengal, irrespective of creed, caste and colour, have always ranged themselves on the side of the British and have ever given their whole-hearted support and co-operation to them whenever they had been in such trouble from the days of Plassey downwards. Some of my friends have already cited instances how in the last war, Bengal had contributed her resources to help Britain.

Mr. SHRISH CHANDRA CHAKRAVERTI: What has been the return?

Raja Bahadur BHUPENDRA NARAYAN SINHA, of Nashipur: The return has already been given in some way or other, though not fully.

Sir, the disasters that are consequent upon the breaking out of hostilities are to be contemplated in this connection. Indescribable are the sufferings to which people are subjected. Innumerable men, women and children are being daily bombed from the air in open cities, cargo boats and passenger ships are being sunk without remorse; massacres, tortures, humiliations, burning of cities, factories and shipyards follow in quick succession. Horror grows upon horror and violence and the threat of violence overshadow the whole world. Unless checked and ended betimes, they are sure to destroy the precious heritage of the past. Art and culture will then bid good-bye and civilisation will be shamefully mutilated. Such being the present outlook of the European situation, it behoves us to declare the unswerving allegiance of the people of Bengal to His Majesty's Throne and Person and their readiness to stand by Britain in her present struggle for the vindication of the principle of democracy against the insensate and ruthless violation by Germany and other aggressive nations of the integrity of weaker independent countries.

Sir, in this connection, my friend, the Rai Bahadur, has already said that Bengal cannot contribute her man-power unless they are trained. He has emphatically said that military training in this country is essential. Unless this is done, it will be of no use to send men who cannot fight and who have never had experience of fighting. I think, he has rightly observed that military training should be given and Government should take action on this line.

In conclusion, I would say that we on our part should do our duty to our King and his country and we expect that in return Britain will do her duty. Without any bargaining on our part, let us hope that no sooner the war has ended, we would have full-fledged Dominion Status in this country.

Khan Bahadur NAZIRUDDIN AHMAD: A decision on this question involves a choice between democracy and dictatorship. Much academic discourse has been showered upon this House and I do not wish to repeat the process. We are all convinced that we must have democracy and not dictatorship. Democracy is a rule of Law while dictatorship is a rule of Force. In a democracy, the minority has an assured position. In every democracy that is a necessary condition. In a dictatorship, the minority has not only no *locus standi* but is summarily brushed aside and suppressed and may be imprisoned or shot as desired by the Dictator. The minority party is not permitted to think aloud. If they criticise the Government, they are shot or detained in concentration camps. A dictatorship begins with democracy and is no doubt supported by a body of

public opinion but it is in reality a rule of force. I would, therefore, have Rule of Law although I may have to part with a part of my rights to earn and enjoy that rule of law. All sections of the House have agreed that we must have democracy. Now the question is what sort of democracy we shall have and in how many stages and by what means. There is, of course, the talk of independence and also of immediate independence. That is the note of the speech of my hon'ble friend Mr. Lalit Chandra Das. I believe, Sir, if my friend, Mr. Lalit Chandra Das is given democracy with complete independence all at once, the democracy in his hand will quickly degenerate into Hitlerism *par excellence*. In this House Mr. Lalit Chandra Das is permitted to abuse the Government and the majority Party without being shot but in his system of Government, as I conceive it to be, if we speak against him, there is no doubt that we will all be shot.

Mr. LALIT CHANDRA DAS: You are speaking against me and yet you are not shot.

Khan Bahadur NAZIRUDDIN AHMAD: That is due to the happy circumstance that my friend has not got complete independence and has not the power to shoot. That is the only obstacle which my friend has in shooting us down. So, I would have democracy and I do not now want independence. Much loose talk has been let in about independence. Independence is certainly our goal but not our immediate goal. It is a remote but our ultimate goal. Even the question of modified independence, i.e., Dominion Status is perhaps not everybody's immediate goal. I was agreeably surprised to-day to hear Dr. Radha Kumud Mookerji saying that he does not want independence. He would be satisfied with Dominion Status. Does he want Dominion Status immediately after the War? No; he would be satisfied with a declaration about it after the War. He would not specify any date or time. I am extremely glad to hear him say so. It is a very happy transformation that the learned Doctor has undergone during his recent excursions in connection with the Floud Commission. It follows, Sir, that we do not want Dominion Status all at once. What we want is a declaration.

Mr. HUMAYUN KABIR: Question!

Khan Bahadur NAZIRUDDIN AHMAD: To this question I must say that I am in the happy position of being bracketted together with a recognised leader of the Congress, Dr. Radha Kumud Mookerji. In fact, the Doctor's thunder has been modified and considerably softened. In fact, he cooed like a dove.

With regard to the talk of Constituent Assembly, I have another difficulty. Sir, theoretically speaking, it is a very attractive idea, but serious difficulties will arise as soon as we try to translate the theory into practice. A Constituent Assembly in a country like India would be impossible. The unit in a Constituent Assembly is the adult population, the masses. First of all, our units are not properly educated. They have no political education. They have not received ordinary education. We have not even given them free elementary primary education. Although primary education has been a transferred subject since the Montague-Chelmsford Reforms and also more than a transferred subject under the present Constitution, still we have not made up our minds to give them free primary education. We have deliberately neglected them. The blame does not lie entirely with the Government. The blame lies with the monied and the propertied classes. They will pretend to sympathise with the masses. They will say "we want to give you primary education free of cost provided"—and this is very important—"we are not made to pay for it". They should rather straight-forwardly tell them "Well, poor people, we use your name, get your votes, enter the Legislature, masquerade as people's representatives and make great names and make great speeches; but mind you, we do not want to give you free primary education because we will have to pay for it and it will open your eyes and destroy our monopoly." Our units are uneducated, thoroughly neglected, thoroughly unacquainted with political life and utterly devoid of political experience. They are trying to build the Constitution from the top whereas they should begin from the bottom. To ask or to allow them to frame a constitution would be absurd and simply unthinkable.

Mr. LALIT CHANDRA DAS: They will send you to frame a constitution.

Khan Bahadur NAZIRUDDIN AHMAD: My friend Mr. Das cannot resist the temptation of interrupting me. I do not dispute his superior draftsmanship. But if I mistake not, Mr. Lalit Chandra Das, on more than one occasion gave notice of adjournment motions in this House and it was found that they were badly drafted and consequently had to be rejected. I submit as a lawyer——

Mr. LALIT CHANDRA DAS: That is all irrelevant.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, the relevancy is this. When Mr. Das, the redoubtable Mr. Das, fails to draft adjournment motions which would be admissible under the rules, it would be

absurd for him to ask the people to draft a Constitution of a vast sub-continent like India, with its immense diversities and complexities, which is infinitely more difficult than drafting a motion.

Mr. LALIT CHANDRA DAS: I have at least attempted once, but you have never attempted at all.

Khan Bahadur NAZIRUDDIN AHMAD: My friend has attempted to draft a constitution! I have not seen it. He has hitherto unsuccessfully drafted two adjournment motions. I shall be surprised if he can draft a simpler constitution than that of the Government of India. Mr. Das would then succeed where experts have failed. At any rate, it will be absurd to expect that a Constituent Assembly of illiterate people would draft the Constitution. I submit that even if they did so, that would not be democracy. It would be indirectly bringing in dictatorship by the majority and the suppression of the minority. The people know nothing. The Congress which is the most advertised (MR. LALIT CHANDRA DAS: Who advertises?) body in the country will go to the people and ask them "Do you want complete independence or Dominion Status?" They will meekly reply "We want complete and immediate independence". Their votes will be secured by mere catchwords and pious phrases and through political propaganda. They will be made to agree to anything and everything and the product will be advertised as the constitution drafted by a Constituent Assembly. That would represent the wishes of political busy-bodies but it would not provide for the minorities. The minorities will be in a hopeless minority in a Constituent Assembly and the ignorance of the people will be utilised for suppressing them. A Constitution drafted by a Constituent Assembly would not be acceptable to the minorities. They will have no place in a constitution so drafted. The real secret of Mr. Lalit Chandra Das's plea for a Constituent Assembly is that it will give him the upper hand. He will be made the Hitler of Bengal.

Mr. LALIT CHANDRA DAS: And you?

Khan Bahadur NAZIRUDDIN AHMAD: I would vanish completely in a constitution to be drafted by Mr. Lalit Chandra Das. I will not be permitted to talk as I am doing now. That will only be possible in a constitution drafted by us. We will allow him to criticise us, to abuse us, to do anything he likes. We can easily tolerate that but my friend cannot.

Mr. LALIT CHANDRA DAS: You have lost your point.

Khan Bahadur NAZIRUDDIN AHMAD: I only wish my honourable friend could see the point. Mr. Lalit Chandra Das's resolution, fortunately for us and for everybody else, has not found favour with the Congress. The Congress resolution moved by Mr. Kamini Kumar Dutta——

Mr. LALIT CHANDRA DAS: You will find that it is exactly the same if you read it.

Khan Bahadur NAZIRUDDIN AHMAD: I say, in spite of Mr. Lalit Chandra Das's interruption, Mr. Kamini Kumar Dutta's resolution is better and more acceptable to us.

Mr. LALIT CHANDRA DAS: You think so because you have not read it.

Mr. PRESIDENT: Order, order.

Mr. LALIT CHANDRA DAS: Word for word it is similar.

Khan Bahadur NAZIRUDDIN AHMAD: My friend has been hit hard and therefore he is extremely uncomfortable. At any rate, Mr. Kamini Kumar Dutta's resolution is much more moderate and is acceptable to a great extent.

Mr. LALIT CHANDRA DAS: Hear, hear. Is it acceptable to you?

Khan Bahadur NAZIRUDDIN AHMAD: Very largely.

Mr. LALIT CHANDRA DAS: Very well, then accept it.

Khan Bahadur NAZIRUDDIN AHMAD: But then there is the question of minorities. What are you going to do with them? The minorities say "Why not guarantee our rights and get our wholehearted support?". Mr. Das will say in reply "If you don't fully believe us, we will have nothing to do with you and we won't even have independence if we are to give anything to the minorities". They say that in constitution-making there should be no bargaining and people should trust one another. I submit that previous agreement before attempting to draft a constitution is the recognised mode of procedure. If my friend would start a limited company, he will first of all draft a Memorandum and Articles of Association which will be approved and signed by the parties. Then, the Company will be registered and people invited to sign membership forms. In the

business world, guarantee precedes work. I submit that an agreed constitution, with previously agreed guarantees is not an unnatural thing. It is the normal procedure. In these circumstances, I should submit that Mr. Nur Ahmed's amendment is an improvement inasmuch as it guarantees the rights and interests of minorities and is therefore the most acceptable and I whole-heartedly support it. I submit that his amendment should be accepted by the House.

With regard to the claims of Mr. Lalit Chandra Das to speak on behalf of the Congress, I find that the Scheduled Castes have thoroughly repudiated him, the Hindu Mahasabha has thoroughly repudiated him, and the Liberals have repudiated him. I have their declarations in my possession. I am very glad that my friend Mr. Das does not challenge me. I, therefore, submit that the House should accept Mr. Nur Ahmed's amendment with one voice. It is practically the same thing as the Congress amendment with a little guarantee for the minorities. The acid test is whether you really care for the minorities. If you care for them, just come over to this side and support Mr. Nur Ahmed's amendment. If not, we would be disposed to question your future intentions. If you agree to work with us, we will provide for you and will never shoot you for a difference of opinion.

Babu AMULYA DHONE ROY: I thank you, Sir, for kindly giving me an opportunity of expressing my views in the matter which is now agitating the minds of Europeans and Indians alike. But, Sir, having regard to the time at my disposal I do not like to go into the history of past events that occurred both here and elsewhere, nor shall I deal with the details of the controversy now going on between His Majesty's Government on one side and the Congress on the other. My submission before the House shall remain confined to a statement as to how the Scheduled Castes are thinking of the Congress point of view. In the interests of the country at large, in the interest of our people, I am bound to oppose the resolution moved by my hon'ble friend Rai Bahadur Surendra Narayan Sinha and support the motion moved by my hon'ble friend the Leader of the Opposition. Sir, the arguments advanced by my hon'ble friend the Rai Bahadur do not deserve any serious notice and I shall therefore pass over to the issues raised by the amendment. Sir, the amendment of my friend Mr. Kamini Kumar Dutta at the outset deals with the avowed object of the European war in which Great Britain is involved to-day. It is she who proclaimed to the whole world that her aim in taking part in this armed conflict was to defend the principles of democracy. Consequently, Sir, the demand of the Congress for a declaration of the British War aim in its application to India is quite consistent with its dignity. Sir, the question as to how this aim and object should be applicable to India is a logical conclusion of Great Britain's loud proclamation. Sir, I wish it to be most clearly understood when I

say that the claim put forward by the Congress to the British Government for recognition of India's freedom and the right of her people to shape the future constitution by means of a Constituent Assembly as defined in most clear terms by the recent Allahabad resolution of the Congress Working Committee, is most fair and legitimate. In that fair and legitimate demand of the Congress, the Scheduled Castes for their own advancement shall solidly, boldly and firmly stand behind the Congress and I would ask the British people to concede this demand.

Sir, here is a copy of the resolution which was adopted by the Bombay Legislative Assembly. The resolution of my honourable friend, Mr. Kamini Kumar Dutta, is substantially the same both in words and in substance. Even Dr. Ambedkar with whom we do not agree on many points agreed with it and his amendment was accepted by the Congress Group in the Bombay Legislative Assembly. Now, Sir, in view of this opinion amongst the Scheduled Castes, I would request the British politicians not to take into account the opinions of those of our community who opposed the Home Rule in the year 1916 when we were reading in schools. Therefore, I would submit before the House with all the emphasis that I can command that at this hour of India's trial when we hope to march forward, if anybody stands in the way of India's demand and if some of the members of the Scheduled Castes for their personal ends join the reactionary forces in the country, I submit that their opinion in the matter of declaration of India as a free country should be ignored.

Sir, what the Congress says is that everyone should have the opportunity of framing the future constitution of India by means of a Constituent Assembly. The Constituent Assembly will consist of members of all the minority communities in proportion to their population and elected on the basis of adult suffrage. The constitution will be so framed as to protect the rights of the minorities to their satisfaction and approval. The existing minorities who want separate electorates would not be disturbed. By this method, Sir, I think, the interests of the Scheduled Castes will be perfectly safeguarded and entirely protected. Therefore, Sir, what I want to submit is that the Scheduled Castes can under no circumstances oppose the Congress demand but support it.

Sir, I would like to submit another point. The Scheduled Castes outside the Congress have no doubt that the minority communities shall include the Scheduled Castes, and the existing separate electorate, as mentioned by the Congress Working Committee, has reference to the panel procedure brought about by the Poona Agreement. If such be the aim of the Congress, if such be the future constitution of India, I think, we have no apprehension. With these words, Sir, I support the resolution of the Leader of our Party.

Alhadj Khan Bahadur SHAIKH MUHAMMAD JAN: Sir, in the first place, I sincerely thank my honourable friend, Rai Bahadur Surendra Narayan Sinha, who moved this war resolution in this Council and thus set the ball rolling and thereby has given us an opportunity to voice our feelings of sympathy and co-operation with the British Government and also our resentment and anger against the unwarranted Nazi aggression which has at last resulted in a world conflagration. In fact, the Rai Bahadur very silently stole a march upon this side of the House, I mean, the supporters of Government or rather I may say, upon the Government who did not think it fit to move a war resolution in this House and neglected us totally though this House has often been called the House of Elders; or it might be that Government did not move any resolution here because they presupposed our goodness and high sense of submissiveness! (Laughter.)

Now, from the long speeches which have been made, it is clear that though there is a sharp difference of opinion as regards constituent assembly, British policy, etc., there is absolute unanimity in the opinion that one man's iron will—I mean, Hitler's—is responsible for the destruction and plunder not only of poor Poland but also for letting loose disruptive forces in this world with the result that the Russian steam-roller which was so long in ambush has come out in the open and has pressed into submissiveness small Baltic nations such as the Esthonia and Latvia, and is pressing those who do not come into line like paddy in the field. Bolshevik Russia, which was only a few months before the champion of small nations and subject countries, has manifested itself in its true colours as the most obnoxious and menacing Imperialist power of the 20th century. Some of our leaders who a few months before were all praise for Bolshevik Socialism which, according to them was the only means of deliverance from the capitalistic chaos, are simply bewildered at the sudden rise of Russia against weak nations.

Now, Sir, Mr. Humayun Kabir said yesterday that there was no difference between one set of Imperialists and another as they come out of the same family, namely, of power. But in my opinion, Sir, there is great difference between the Imperialists of yesterday and the Imperialists of to-day, if for no other reason but that the former have learnt by experience that Imperialism does never pay in the long run. It must be said to the credit of the British Government that after the loss of the American Colonies, it has learnt to take into account genuine public opinion. As fine examples, I may cite the cases of the independence of Ireland and Egypt. Therefore, I am fully convinced that as the majority of public opinion in India is not satisfied with the declaration of the British War aims and its application to India, the British Government will soon come to terms with majority public opinion and then and then alone will India be able to put all its weight,

its vast resources in men and money on the side of the democratic countries not only for the preservation of small democracies in Europe, but also in the interests of other countries who are struggling for their lives, as for instance, China and Palestine. They are also, in my opinion, as much entitled to the right of self-determination as the people of Europe.

Sir, I do not want to take the precious time of the House but I wish to clear away some misconceptions which are existing in the minds of my co-religionists regarding constituent assembly. It was said by Mr. Nur Ahmed and repeated by Khan Bahadur Naziruddin Ahmad that in a constituent assembly, the Muslims will be a minority and they will be outnumbered by the Hindus. But that is not the case. In the constituent assembly which has been demanded by the Congress every minority including the Muslims, the Sikhs and other minorities will be duly represented according to the number of their population. Their unanimous demand or the demand of the majority of those minorities will be fully acceded to by the other parties. In order to be more explicit, I want to give a concrete example. The Muslim population in India is 80 millions. If the principle of one member or one representative for one million is accepted, it means that 80 millions of Muslims will elect 80 members in the constituent assembly and if these 80 Muslim members of the constituent assembly present a demand before the other party, it will be accepted. In case there is difference of opinion, that matter will be referred to some international arbiter or anyone that the contending parties may name.

Now, as regards the practical difficulties of framing a constituent assembly, I may say that adult suffrage may be replaced by the present franchise, so that there may be no difficulty about electing the representatives in our constituent assembly. With these words, Sir, I support the amendment which has been moved by Mr. Nur Ahmed.

Mr. KADER BAKSH: Sir, I shall say only a few words over this resolution and the amendments. We have to consider whether the menace to civilization and the democratic institutions in the world is real. There has been a menace to the democratic institutions of this world and by whose acts this menace has been brought about?

Sir, in India, all the parties—the Congress, the League and other parties—have agreed that Nazi aggression has been a menace to the civilization of the world and to the civilized institutions of the world. If that has been accepted, Sir, I do not understand why should there be any bargaining on the part of India to give co-operation and help for the successful termination of the war. I fail to understand this.

Now, Sir, Britain and France are engaged in a life and death struggle for upholding a very high ideal, namely, for saving the democratic institutions of the world and the civilization of the world. Then

why should India be bargaining at a time when they have been put under a disadvantage?

Sir, is it not the moral duty of every man who loves democracy and democratic institutions to give all possible help and co-operation at a time like this to ward off the menace? Every democratic State is now threatened by Nazism or Hitlerism and Russian Bolshevism. My point is that if the activities of the German nation or, in one word, Nazism is a bad thing, that bad thing must be warded off, and all co-operation and assistance should be given by Indians irrespective of the consideration of Dominion Status or the declaration by the British Government of India as an independent State at the present moment. Now, Sir, it has been declared in no uncertain terms that the goal of Britain in India is to give Dominion Status and we have been demanding the same. I do not want that in the present state of the world's situation Britain should withhold giving or declaring Dominion Status to India in the long run.

With regard to the Constituent Assembly about which my friend has talked so much, we cannot forget the situation prevailing in our country. I don't say that the Congress is at fault or that the Muslim League is at fault. But the Congress and the League have not been able to see eye to eye with regard to anything. If we read the daily Papers, we will find that the Congress does not agree with the views of the League. Nor does the League hold the views which are held by the Congress. We are so undemocratic in our ideals, we are so impolitic in our vision, that we cannot meet together and bring about a solution of our problems. We have been fighting at Jubbulpore and everywhere. We have been fighting over small matters. When the people belonging to the Congress and the Muslim League and the Scheduled Castes people have not been able to bring about a solution of their own affairs, it is a wild talk to speak of a Constituent Assembly. The League will not join with the Congress in pressing that demand. Nor would the Congress shape and change its policy in such a way as to inspire confidence in the League. That has been the most unhappy situation in the country. We have not been able to put forward a united demand for independence or Dominion Status and press it.

Sir, there have been troubles here and there, at Noakhali, at Serajgunj and elsewhere. Eminent persons like Dr. Shyama Prosad Mookerjee and Mr. B. C. Chatterji have not been able to ignore them. They have made much of these things. They have been agitating in the country over small issues. When we have not been able to put up with these on the part of one or the other party, it is futile for us to talk either within the Assembly or the Council or outside about an agreed solution for demanding Dominion Status in the immediate future. It is impossible for us to do it because we are so very narrow-minded that we cannot think but only talk of big things. I do not

say that one or the other party is at fault. Both Hindus and Muhammadans are at fault. We cannot see eye to eye. We cannot trust you nor can you trust us. When one or two appointments go to Muhammadans, the Hindus raise their voice to the skies. Look at the statement which has been issued by Dr. Mookerjee and Mr. Chatterji.

Mr. LALIT CHANDRA DAS: Have you read the statement?

Mr. KADER BAKSH: I treat a statement like that with the contempt that it deserves, because I think of India's future. I don't think of the future of the League or of the Congress. Every man ought to think about his country's future, but that future is never to come unless and until Hindus and Muhammadans combine. They will never combine. Hindus and Muhammadans will never combine because you have been carrying on agitation through the Press and on the platform. You are always bringing into the forefront the kind of agitation which widens the gulf between Hindus and Muhammadans. I think that this is the only reason why we have not been able to put forward a demand, a united demand, on behalf of India for independence in the immediate present or in the future. So, I think this resolution is premature and undignified. Mr. Humayun Kabir has said that this is the opportune moment when the people of India should unite and demand independence because Britain is now in difficulties. To say that we should put our demand for independence or Dominion Status at this opportune moment when Britain is in difficulties is most dishonourable and immoral. We must not take advantage of the position in which Britain is placed at the moment. So, I think that the resolution moved by the Congress Party is not acceptable. For these reasons, I want to support the resolution of my friend Mr. Nur Ahmed which is quite practicable.

Mr. LALIT CHANDRA DAS: That is bargaining!

***Khan Bahadur Maulvi MUHAMMAD IBRAHIM:** একথা সর্ব্ববাদীসম্মত যে দুর্ব্বল সবলের আহার। সবল দুর্ব্বলকে গ্রাস করিবার জন্য চেষ্টা করে—ইহাই হইল পশু প্রকৃতি। সিংহ, ব্যাঘ্র, প্রভৃতি পশু ছাগল, ভেড়া, কুকুর, বেড়ালকে আহার করে।

আজ নাৎসী জার্ম্মাণী পশুবলে বলীয়ান হোয়ে দুর্ব্বল পোলাণ্ডকে গ্রাস করিবার জন্য উদ্যত হোয়েছে। রাসিয়া ফিনল্যাণ্ডকে গ্রাস করিবার চেষ্টা করিতেছে। পোলাণ্ড এবং ফিনল্যাণ্ড ধনবলে এবং জনবলে জার্ম্মাণী এবং রাসিয়া অপেক্ষা দুর্ব্বল। একথা নিশ্চয়ই বলা যেতে পারে তারা সংখ্যালঘু এবং জার্ম্মাণী ও রাসিয়া সংখ্যাগুরু। সুতরাং যদি সবলের গ্রাস হইতে দুর্ব্বলকে রক্ষা করিবার জন্য কোন জাতি অগ্রসর হয় সেটাকে নিশ্চয়ই তার মহত্ত্ব বলা যেতে পারে। আজ যে England, Poland প্রভৃতি দুর্ব্বল জাতিকে রক্ষা করিবার জন্য অগ্রসর হইয়াছে এটা নিশ্চয়ই তাঁর মহত্ত্বের পরিচায়ক।

An authorised English translation of this Bengali speech will be found in the Appendix.

আমরা ভারতবাসীরা প্রায় দেড়শত বৎসর ইংলণ্ডের সহিত একত্রে বসবাস করিতেছি—তাহার অধীনে বাস করিতেছি। সুতরাং এই যুদ্ধ সম্বন্ধে ইংলণ্ডকে সাহায্য করা ভারতবর্ষের এবং বাংলার একটা বিশেষ কর্ত্তব্য আছে। আদান প্রদান দুনিয়ার নিয়ম।

গত মহাযুদ্ধে আমরা ধনজন দিয়ে Englandকে সাহায্য কোরেছিলাম। তার বিনিময়ে আমরা প্রাদেশিক স্বায়ত্তশাসন পেয়েছি—যদিও তা নানা দোষে পরিপূর্ণ। যদিও আমরা সম্পূর্ণরূপে প্রাদেশিক স্বায়ত্ত শাসন পাইনি তথাপি যতটুকু পেয়েছি তাতে আমার মতন নগণ্য লোকও ব্যবস্থা পরিষদে এসে দুএকটা কথা বলবার অধিকারী হোয়েছে। এটা কম নয় সুতরাং ইংলণ্ডকে এসময়ে যথেষ্ট সাহায্য প্রদান করার প্রয়োজন আছে।

আমার কথা হোচ্ছে ইংলণ্ড দুর্ব্বলকে রক্ষা করবার জন্য, এবং যারা সংখ্যালঘু তাদের রক্ষা করবার জন্য অস্ত্র ধারণ কোরেছে। সুতরাং আমি মনে করি এখানে যে সব সংখ্যালঘু সম্প্রদায় আছে তারাও বাদ যাবে না। ইংলণ্ড তাদেরও রক্ষা কোরবে। এই সব কারণে আমি এদেশে ঔপনিবেশিক স্বায়ত্তশাসন প্রবর্ত্তনের প্রস্তাব সমর্থন করি। Moderate কংগ্রেসেরও এই নীতি ছিল। আমরা একেবারে স্বাধীন হব সেটা বাঞ্ছনীয় নহে। কেননা স্বাধীনতা রক্ষা করিবার মত বল সংগ্রহ করা সময় সাপেক্ষ।

সুতরাং, আমাদের প্রথম কাম্য হবে ঔপনিবেশিক স্বায়ত্তশাসন। কোন সম্প্রদায়ের অধিকার ব্যাহত না কোরে ঔপনিবেশিক স্বায়ত্তশাসন সম্বন্ধে যে প্রস্তাব করা হোয়েছে আমি তাহা সর্ব্বান্তঃকরণে সমর্থন করি।

Mr. PRESIDENT: Order, order. Discussion on this resolution and amendments thereto will continue to-morrow also. As soon as it is finished, the other business fixed for to-morrow, namely, the General Clauses Amendment Bill and Supplementary Budget, will be taken up.

I now adjourn the Council till 2-15 p.m. to-morrow.

Adjournment.

The Council then adjourned till 2-15 p.m. on Thursday, the 14th of December, 1939.

Members absent.

The following members were absent from the meeting held on the 13th of December, 1939:—

(1) Rai Bahadur Manmatha Nath Bose.

(2) Mr. Humayun Reza Chowdhury.

(3) Mr. Narendra Chandra Datta.

(4) Mrs. K. D'Rozario.

(5) Khan Bahadur Alhaj Khwaja Muhammad Esmail.

(6) Mr. Kanai Lal Goswami.

(7) Maulana Muhammad Akram Khan.

(8) Rai Bahadur Satis Chandra Mukherji.

(9) Mr. K. C. Roy Chowdhury.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Thursday, the 14th December, 1939, at 2-15 p.m., being the eleventh day of the Third Session pursuant to section 62 (2) (a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Non-payment of pensions in the Jessore and Khulna districts.

70. Khan Sahib ABDUL HAMID CHOWDHURY (on behalf of Mr. K. C. Roy Chowdhury): Will the Hon'ble Minister in charge of the Finance Department be pleased to state—

(a) the cause of the non-payment of pensions of retired Government servants of the Jessore and Khulna districts by the Government for months together;

(b) the number of Government servants with names who retired from their service in the period from January to October, 1939;

(c) the dates of their retirement and of drawing pensions; and

(d) whether any action will be taken for regular payment of their pensions every month?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Mr. Nalini Ranjan Sarkar): (a) and (d) Once a pension is sanctioned payment is made regularly.

It is presumed that what the hon'ble member has in mind is the delay in the issue of orders sanctioning pensions. The verification of an officer's services occasionally involves delay but every endeavour is made to expedite the issue of orders.

(b) and (c)—

JESSORE.

	Date of retirement.	Date of drawing pension.
(1) Babu Bipin Behari Datta, Assistant, Jessore Collectorate.	16th March, 1939	13th October, 1939.
(2) Naimuddi Munshi, Process-server, Magura.	20th May, 1939	Not yet sanctioned.
(3) Nagendra De, Process-server, Jessore.	1st July, 1939	Ditto

KHULNA.

(4) (Name not known) Process-server, Khulna.	June, 1939	.. Not yet sanctioned.

Communal propaganda of Maulvi Gholam Sarwar, M.L.A., in the Noakhali district.

71. Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) whether it is a fact that Maulvi Gholam Sarwar, M.L.A., and his associates are carrying on a systematic anti-Hindu communal propaganda in the district of Noakhali and has succeeded in bringing about a severe tension of feeling between the Hindus and the Mussalmans there;

(*b*) whether the said Maulvi Sahib is a member of the Coalition Party and of the Moslem League and whether it is a fact that the attention of the District Magistrate and Divisional Commissioner was drawn to his activities but without effect;

(*c*) whether it is a fact that the said Maulvi Sahib stated in public meetings that the District Officers could be transferred or otherwise dealt with according as he willed and whether Hindu Officers grew nervous and Moslem Officers connived at his activities;

(*d*) whether his speeches were ever reported by Government reporters and whether any attempt has been made by the authorities to have his speeches at Noakhali reported during the last two years and a half;

(*e*) whether it is a fact that on the 12th April last (1939) and on the 13th August last, also on the 3rd September last the said Maulvi Gholam Sarwar, M.L.A., addressed three crowded Moslem meetings, the first at Lamchar, thana Ramganj, the second at Chowmuhani Bazar and the last at Sampara Bazar, thana Ramganj, district Noakhali;

(*f*) whether it is a fact that at the Lamchar meeting he incited the Moslem labourers to boycott the Hindus and incited his hearers to beat a certain teacher and openly declared in public that he got an I.C.S. Magistrate reduced to the position of a clerk in the Secretariat as he did not properly behave with him in Noakhali;

(*g*) whether it is a fact that in this Sampara Bazar meeting he stated publicly that after 250 years the Moslems got back the *Raj* of which the Premier Fazlul Huq is now the ruler

and if 85 per cent. Moslems of the district would pass water, 15 per cent. Hindus could be easily washed away into the Bay of Bengal;

(*h*) whether he stated that of the high officials two are Hindus and the rest are Moslems and that he would get the two Hindu Officers transferred soon;

(*i*) whether it is a fact that he referred to alleged oppression by the Hindus on Moslems over cow-killing in Western India and advocated counter-oppression by the majority community in Bengal;

(*j*) whether he incited the Moslems against certain Hindu gentlemen for helping the prosecution of certain Moslem accused in the Military assault case at Dattapara;

(*k*) whether it is a fact that for his anti-Hindu activities in Noakhali there are reports against him by various District Magistrates and Divisional Commissioners; and

(*l*) what action, if any, Government intend to take to curb his anti-Hindu communal activities and whether Government propose to take all steps to reassure the Hindus and restore good feelings between the Hindus and the Mussalmans of Noakhali?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) No such systematic propaganda is being carried on by Maulvi Gholam Sarwar. It is not known who are intended by the expression "his associates". Government are informed that the relation between the communities in Noakhali is now normal.

(*b*) He is a member of the Coalition Party and the Moslem League. The attention of the local authorities was drawn to his alleged activities and action was taken thereon.

(*c*) No authenticated report of such statements has been received.

(*d*) No. A police officer attended a meeting at which he spoke on 3rd September, 1939.

(*e*) I understand that he addressed meetings as stated in the question on the 12th April, and 3rd September last. I have no information of the alleged meeting on the 13th August.

(*f*) An enquiry was made into certain allegations as to the contents of his speech but the report thereon does not indicate that he made the statements attributed to him.

(*g*) to (*k*) I have no information to this effect.

(*l*) In view of my answer to (*a*), does not arise.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state whether propaganda from time to time was carried on by Maulvi Gholam Sarwar of an anti-Hindu communal nature, although no systematic propaganda was being carried on by him?

The Hon'ble Khwaja Sir NAZIMUDDIN: As far as I know, mostly his speeches and propaganda have been directed against the Congress though sometimes references might have been made to the Hindus as well.

Mr. LALIT CHANDRA DAS: Is the Hon'ble Minister in a position to deny that the Maulvi Saheb's activities were of a communal nature?

The Hon'ble Khwaja Sir NAZIMUDDIN: Anybody who supports the Muslim League certainly does support the Muslim community's point of view.

Mr. LALIT CHANDRA DAS: In supporting the Muhammadan community, is the Hon'ble Minister aware that he transgressed the ordinary limits and actually attacked the Hindus and carried on an anti-Hindu communal propaganda?

The Hon'ble Khwaja Sir NAZIMUDDIN: That is not my information.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state what was the nature of the action taken as referred to in answer (*b*)?

The Hon'ble Khwaja Sir NAZIMUDDIN: Arrangements have been made that a Gazetted Officer will be present when he makes speeches in future.

Mr. LALIT CHANDRA DAS: When has this arrangement been made?

The Hon'ble Khwaja Sir NAZIMUDDIN: For the last two months.

Mr. LALIT CHANDRA DAS: In answer (*c*), it is said that no authenticated report of such statements has been received. May I draw an inference from this that the Hon'ble Minister knows, although the report is unauthenticated, that as a matter of fact he actually made such a statement?

The Hon'ble Khwaja Sir NAZIMUDDIN: The inference is not correct on the part of the hon'ble member.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state the name of the officer who attended the meeting when the Maulvi Saheb spoke on the 3rd September?

The Hon'ble Khwaja Sir NAZIMUDDIN: I ask for notice.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state whether from the report of the police officer he was convinced that the Maulvi Saheb carried on a communal propaganda in Noakhali?

The Hon'ble Khwaja Sir NAZIMUDDIN: No, Sir, that is not so.

Mr. LALIT CHANDRA DAS: In answer (*e*), it is stated: "I understand that he addressed meetings as stated in the question on the 12th April and 3rd September last. I have no information of the alleged meeting of the 13th August." Was no officer deputed to the meeting which was addressed by the Maulvi Saheb on 13th August?

The Hon'ble Khwaja Sir NAZIMUDDIN: May I draw the attention of the hon'ble member to this: how are officials to know when a particular member is going to address a meeting?

Mr. LALIT CHANDRA DAS: I am asking whether from the enquiries the Hon'ble Minister has made he has gathered that a certain officer also attended the meeting on the 13th August?

The Hon'ble Khwaja Sir NAZIMUDDIN: I have already stated that we have no information that such a meeting was held.

Mr. LALIT CHANDRA DAS: In answer (*f*), it is said that an enquiry was made into certain allegations as to the contents of his speech but the report thereon does not indicate that he made the statements attributed to him. Although the report might not have indicated the exact statements attributed to him, will the Hon'ble Minister be pleased to state whether after the receipt of the speech he was satisfied that the speech was violent and anti-Hindu?

The Hon'ble Khwaja Sir NAZIMUDDIN: No, I am not satisfied at all that such things are correct.

Dr. RADHA KUMUD MOOKERJI: Arising out of answer (*c*) where it is said that no authenticated report of such statements has been received, may I know if any report has been received by Government?

The Hon'ble Khwaja Sir NAZIMUDDIN: Reports from non-official sources have been received.

Dr. RADHA KUMUD MOOKERJI: I want to know whether the Hon'ble Minister did not think it was right to make an enquiry as to whether the reports from non-official sources were corroborated by facts?

The Hon'ble Khwaja Sir NAZIMUDDIN: Until and unless Government shorthand reporters are there, it is very difficult to assert one way or the other what the hon'ble member said in his speech.

Release of political prisoners.

72. Mr. KAMINI KUMAR DUTTA: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state whether the Government is aware of the fact that the decision of the Bengal Government in not showing clemency to the remaining 34 prisoners described as terrorists and 6 civil disobedience prisoners and in declining to release them has caused a feeling of widespread disappointment and dissatisfaction in the mind of the public?

(*b*) Does the Government intend to consider their case for release specially and from a different standpoint and not in the ordinary normal course of the 14 years' rule?

(*c*) Is it not a fact that the cases of these prisoners are of a quite different and separate character and altogether distinct from the cases of ordinary prisoners coming under the 14 years' rule and does not their case deserve special consideration? Does not the Government consider that actions of these prisoners were motivated from a different standpoint than that of ordinary prisoners and are not their actions to be judged on a basis different from that of an ordinary crime? Is it not the accepted policy all the world over to judge the actions impelled by political consideration from a different angle of vision?

(*d*) Does the Government propose to release these political prisoners who have declared that they had no faith in terrorism?

(*e*) Is it not a fact that Government has found that those who have been released have not participated in any terroristic activities and have shown by their conduct that their declaration is genuine and true?

(*f*) Is the Government aware of the fact that there is a universal feeling in favour of the release of all the remaining political prisoners and does the Government intend to accede to this popular demand that these remaining prisoners should also be treated in the same way as others who have been released?

(*g*) Did not the Hon'ble Minister assure the Congress President Shree Rajendra Prasad and other leaders on the occasion of the hunger-strike of the political prisoners in Dum Dum and Alipore Jails in July and August last that it was not true that the Government had made up their mind not to release a certain number of prisoners and claimed that the Government had released a majority of the prisoners and would continue the policy of release after the hunger-strike was given up? Does the Government intend to fulfil this assurance?

(*h*) Has the attention of the Government been drawn to the admirable restraint exhibited by these political prisoners who resorted to hunger-strike? Does the Government intend to modify its present decision of not releasing the remaining political prisoners and to respond to the appeal to them to honour the India-wide demand for the early and unconditional release of the remaining prisoners?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) and (*f*) No.

(*b*), (*c*) and (*d*) The hon'ble member is referred to communiques, dated the 25th September, 1938, and 7th July, 1939, and to a resolution dated the 13th November, 1939, copies of which are placed in the Library. These fully state the policy of Government and I have nothing to add to them.

(*e*) I am not in possession of information which would justify me in giving an affirmative answer.

(*g*) I have nothing to add to my published statement, dated the 4th August, 1939, of which a copy is placed in the Library.

(*h*) I do not understand what the hon'ble member means by reference to the restraint exercised by these convicts. Government has received no explicit undertaking that any convict still in jail will in fact not resort to violence. There is no such India-wide demand and the last part of the question does not arise.

Mr. KAMINI KUMAR DUTTA: In view of the fact that in the communique referred to in reply (*b*), (*c*) and (*d*), there is only a narrative of the incidents relating to the occurrence and there is no reference as to whether the Government is willing to accept the policy of extending clemency in respect of actions which were prompted by political considerations, will the Hon'ble Minister be pleased to give an explicit reply to that question?

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, more than once Government have announced their policy that they are not prepared to accept the proposition that because a crime has been committed for political reasons, it should be differentiated from other crimes. Government's contention has always been that we cannot go into the motive of a crime. If we do that, we do not know where we will land ourselves in.

Mr. KAMINI KUMAR DUTTA: As to the reply to paragraph (*g*), will the Hon'ble Minister be pleased to state clearly whether on the occasion of the hunger-strike of political prisoners in July and August last, the Government did not give the Congress President Shree Rajendra Prasad to understand that Government had not made up their mind already that they would not release a certain number of prisoners?

The Hon'ble Khwaja Sir NAZIMUDDIN: That is absolutely correct. At that time we had not come to the decision as to what we would do as regards these prisoners. We were awaiting the report of the Committee.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister be pleased to state as to whether the Government did not at that time lead the Congress President to believe that Government would continue the policy of releasing prisoners after the hunger-strike was given up?

The Hon'ble Khwaja Sir NAZIMUDDIN: That is very misleading. The policy of releasing prisoners was stopped owing to the hunger-strike. The Congress President was assured that after the hunger-strike was over, those who would be entitled to release would be released and that they would not be penalised for having gone on hunger-strike.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister be pleased to state whether in respect of prisoners who were still in jail and about whom a communique had been issued, it is the policy of Government that they are not going to show any clemency?

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, that is the recommendation of the Committee and Government have accepted that recommendation.

Dr. RADHA KUMUD MOOKERJI: Arising out of answer (*h*), will the Hon'ble Home Minister be pleased to make more explicit his words "no explicit undertaking has been received from the convicts"?

The Hon'ble Khwaja Sir NAZIMUDDIN: Well, Sir, none of these people have definitely given us an undertaking that they have given up faith in methods of violence.

Dr. RADHA KUMUD MOOKERJI: My question was whether any undertaking, explicit or implicit, was received by Government.

The Hon'ble Khwaja Sir NAZIMUDDIN: Some of them have appeared before the Committee, and we have been given to understand that for the present they do not believe in the policy of terrorism.

Dr. RADHA KUMUD MOOKERJI: Am I to understand that the undertaking that has been given publicly before a Committee or comparatively speaking more publicly before a Committee will not be taken as an explicit undertaking by Government?

The Hon'ble Khwaja Sir NAZIMUDDIN: We do not think so, because I do not think that any of them have said that they are not going to resort to violence in future.

Mr. LALIT CHANDRA DAS: Arising out of answer (*c*), will the Hon'ble Minister be pleased to state whether it is a fact that civilised Governments all over the world take notice of the motive of crime and differentiate between a political prisoner and an ordinary prisoner?

The Hon'ble Khwaja Sir NAZIMUDDIN: I don't agree with the hon'ble member.

Inspection of printing presses.

73. Rai KESHAB CHANDRA BANERJEE Bahadur (on behalf of Mr. K. C. Roy Chowdhury): Will the Hon'ble Minister in charge of the Commerce and Labour Department be pleased to lay on the table a statement showing—

(*a*) the names, with dates, of the printing presses inspected by the Inspector of Factories, Bengal, in the year 1939;

(*b*) the number of press proprietors prosecuted in the same year by the Inspector of Factories, Bengal, under the Wages Act and the Indian Factories Act; and

(*c*) the names of the proprietors and of the presses referred to in clause (*b*)?

The Hon'ble Mr. H. S. SUHRAWARDY: (*a*) A statement is laid in the Library.

(*b*) None under the Payment of Wages Act and four under the Factories Act.

(*c*) A statement is laid in the Library.

Short-notice question.

Rai Bahadur KESHAB CHANRA BANERJEE: Sir, on a point of information. More than a week ago, I gave notice of a few short-notice questions for being answered during the current session of the Council. But up till now no such question has been replied to. These questions relate to the sudden rise in the prices of foodstuffs.

Mr. PRESIDENT: Our Rules of Procedure lay down that before a question can be admitted for being answered at short-notice, the consent of the Hon'ble Minister in charge of the Department concerned has also to be obtained. The office has received no reply yet from Government whether the questions will be accepted at short-notice or not.

The Bengal Patni Taluks Regulation (Amendment) Bill, 1939.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, may I make one submission? The date for presenting the report of the Select Committee on the Patni Taluks Regulation (Amendment) Bill, 1939, expires on the 15th instant. The Committee has not yet been able to finish its report. May I suggest that the time be extended till the 19th of this month?

Mr. PRESIDENT: The question before the House is: that the time for presenting the report of the Select Committee on the Bengal Patni Taluks Regulatoin (Amendment) Bill, 1939, be extended till the 19th December next.

(The motion was agreed to.)

War Resolution.

Mr. PRESIDENT: Order, order. The House will now resume discussion of the non-official resolution on the War.

Khan Bahadur M. ABDUL KARIM: Mr. President, Sir, before I make my submission before this House, I should like to know from the Chair what time will be allotted to me for the purpose of this debate on the war, so that I may not have to sit down abruptly just in the middle of my speech. (Laughter.)

Mr. PRESIDENT: The ordinary time is only 15 minutes, but for the Leader of the Coalition Party I shall consider and extend it to a longer period.

Khan Bahadur M. ABDUL KARIM: Thank you, Sir. In the first place, Sir, I must congratulate the honourable members of this House for the very cool and dignified manner in which the discussion has been allowed to proceed along. Except in one or two instances perhaps, to which I shall make a reference just in passing, I think that the dignity of this House has been maintained at least for once. (The Hon'ble Khwaja Sir NAZIMUDDIN: Hear, hear.)

Before I embark upon a discussion of the merits and demerits of the original resolution and the amendments thereto, I should like to make a few preliminary observations. I shall place certain facts before the House in the course of my discussion, get myself out of the way and let the House decide and I shall give absolute freedom to my party to vote just as they please. (Cries of "Hear, hear" from the Coalition benches.)

In the first place, the honourable members ought to remember that we are very proud of the fact that we are members of the Upper House and anything either by way of protest or by way of remarks that tends to detract from that position ought to be deplored by all. We ought to maintain our position and dignity, not merely as orators and patriots but as statesmen. That is my conception of the legitimate function that the members of the Upper House are called upon to undertake. By "statesmen", I mean gentlemen of wide experience and knowledge having eyes, like that Greek God, "'Janus", both before and after and quite unlike people, especially patriots and orators, most of whom do not care to and are not able to see beyond the tip of their nose. At the same time, I must say that pessimism and impatience or impatient idealism are the very negation of statesmanship. I was born and nursed as a child of optimism and I have always taken an optimistic view of things. My creed has always been "Don't hope too much, despair neither". I make an appeal to the honourable members opposite belonging to the Congress Party to take particular note of this warning because in dealing with the subject-matter of the motion, I shall have to refer to certain matters and I will ask them to wait and not to be impatient. As a matter of fact, this optimism and a sincere desire to bring about a compromise in the ever-changing conditions of time is the very life and soul of that statesmanship. We are not to allow our judgments to be clouded by prejudices or passion. Think as a statesman, act as a statesman—that is my appeal to all the members of the House including those who are senior to me and those who are junior to me.

Now, Sir, there has no doubt been a free discussion of this most important subject, but I cannot say that there has been a full discussion and that for the simple reason that although the intentions and motives of Mr. Neville Chamberlain have been attacked by my friends of the Opposition, the cases of the Secretary of State, our old friend Lord Ronaldshay, and the Foreign Secretary, our late Viceroy Lord Irwin, are not represented here; we have not yet heard what they have got to say in reply to the charges made against the British Government, the British Ministry and the Secretary of State. Therefore, I submit that although there has been a free discussion, there has not been a full discussion to enable us to pass a definite judgment. With your permission, therefore, I should like to tell the House what the British Government and the Secretary of State would like to say in reply to the charges of the Congress. And before that point is made clear, I think, the time is not ripe for me to advise my friends opposite as to what they are to do with the amendment that they have tabled to the original resolution. Dr. Radha Kumud Mookerjee and almost all the members of the Congress Party have laid before us openly the charge of insincerity of the British Government, the charge of duplicity, the charge of hypocrisy on the part of the British Government to keep the Indian peoples in their subjection for all time to come. The honourable members have heard that. It was an ill wind that blew the day before yesterday which I think did nobody any good. As a matter of fact, the atmosphere has to be cleared before the House of Elders can come to a definite decision. As regards that, if they, as a matter of fact, think that the British Government has got that sinister motive, certainly there is Imperialism and they can cast their votes on the resolutions in any way they like. Therefore, although I do not hold any authority from anybody and it is a pity that the Government of Bengal have not moved any resolution in this House as direct grandsons of the Secretary of State (The Hon'ble Khwaja Sir NAZIMUDDIN: Great grandsons!)—may be great grandsons of the Secretary of State, although a similar resolution has been moved by the Government in the Assembly. The reason may be probably that they thought that a resolution like this need not be placed before a House of Elders where they are a body of old fossils! (Laughter.) It may be due to that sort of feeling or it may be due to the fact that it is a matter which is so very clear that no resolution need be moved before the House of Elders! It may be due to this fact too. Whatever that may be, we have found an emissary from the parallel Government at Wardha in the person of Mr. N. R. Sarker, not the Finance Minister of Bengal, appearing in the House of Elders in his private capacity and giving out his private opinion as to what he thought about the intention and significance of the Congress amendment. We were simply taken by surprise that he was in sympathy with the Congress resolution which emanated from the parallel Government at Wardha.

Now, Sir, I have one submission to make. It is this. A Minister has a right to appear in this House and to speak on any resolution only in his capacity as a representative of Government. (Cries of "Hear, hear" from the European Benches.) He has absolutely no right to come and speak here in his personal capacity and not as a representative of Government. Therefore, I would ask the honourable members of this House to put wax into their ears and not to listen to and consider what he said yesterday. I would also ask the Hon'ble President to see that his speech is not reported in the Official Proceedings——

Mr. PRESIDENT: Order, order. The Chair would not have allowed the Hon'ble Mr. Sarkar to speak in his personal capacity. He spoke as a Minister although he did not put forward the joint decision of the Cabinet. He made his position clear at the very outset of his speech. A Minister has, I think, a right to address this House only in the capacity of a Minister and not in his personal capacity.

Khan Bahadur M. ABDUL KARIM: Except as a Minister, subject to your final decision, I would request you to consider whether he can come here at all. If he does not function as a Minister, I would ask you to consider whether he comes at all within the definition of a Member of this House as defined in the rules framed by this House and also by the Governor. He can only appear, he can only be taken as a person having a legitimate right to enter this hall, if he appears as a representative of the Government. He has no right to carry any message or convey any message of his own unless it be a message from the Cabinet. Therefore, Sir, I urge this point very strongly for your consideration, because this would create a very bad precedent. If he has been a dissentient member in the Cabinet he has no right to express that dissentient view-point in this Council. Not only as a question of privilege but also as a question of precedent I ask you, Sir, to consider very seriously this question and to see that the report of the Hon'ble Mr. Sarkar's speech is not published in the official proceedings. I would also ask my hon'ble friends not to be influenced by that speech because he has given his seal of personal approval to the Congress resolution.

Mr. SHRISH CHANDRA CHAKRAVERTI: We do not want his approval.

Khan Bahadur M. ABDUL KARIM: It may prejudice the decision of this House because the Hon'ble Mr. Nalini Ranjan Sarker has said so.

Mr. LALIT CHANDRA DAS: Your proposition is that this is a House of Elders. Therefore, you need not be afraid of the decision being prejudiced.

Khan Bahadur M. ABDUL KARIM: Even if I am given that assurance, I would ask the Chair to see that his speech might be deleted from the official proceedings. We cannot allow any representative of Government to do anything that is unconstitutional.

Dr. RADHA KUMUD MOOKERJI: Is the hon'ble member speaking on a point of order?

Mr. PRESIDENT: He has raised the big question as to whether any Hon'ble Minister can give expression to his individual views, as distinct from the joint decision of the Cabinet, on the floor of this House on any important issue. I take the Khan Bahadur's objection in that light. Had there been a Government resolution on the subject of the War, his objection might have been relevant. Unfortunately, there was no Government resolution and I thought that individual Ministers were free to give vent to their personal opinion.

Khan Bahadur M. ABDUL KARIM: When I have got sufficient assurance from the House, I leave the matter entirely in your hands. I only want that the privileges of this House should not be curtailed by this sort of intrusion by Hon'ble Ministers of Government.

Sir, before I pass on to other points, I want to refer to a pertinent matter, a point which is absolutely relevant, and this is the proper time for me to speak on that. The amendment tabled by Mr. Nur Ahmed of my party begins thus:

> "This Council further approves of the policy of the Bengal Government towards the present International crisis in condemning Nazi aggression, etc, etc."

I lay emphasis on the words "This Council further approves of the policy of the Bengal Government." Some of my hon'ble friends might ask "Why do you put in those words in the resolution? What have we to do with the policy of the Government?". To that, Sir, my answer would be that Government is bound to take our advice. Government is bound under the Constitution to do so and as a matter of fact, the Dictionary meaning of the word "Council" is a body that advises the Government as distinguished from the functions performed by the representatives of the Legislative Assembly who are to give out what the people think and feel. Government has not come before us with a resolution or rather has not thought fit or necessary to come before us with a resolution. Lest their policy sent up to the Government of

India should be prejudiced on the ground that it has not obtained the necessary sanction of the Council, we pass it. Therefore, just to facilitate the matter, we have intentionally inserted these words. We say to Government, "Although you do not seek our approval, we give our approval to the policy of the Bengal Government". We are in no mood to relinquish any of the constitutional rights that this House has. Therefore, we say "Although uninvited, I am your guest". We cannot relegate our functions, our powers and privileges, without restriction to the hands of the local Government. If they do not care to come to us, just to facilitate the step taken by the Bengal Government we send on our approval of our own accord.

Now, Sir, I will shortly give the sense of the original resolution and the amendments thereto. The first resolution is that of my hon'ble friend Rai Surendra Narayan Sinha Bahadur, a Kshatriya by caste, belonging to the martial race. Well, he comes forward with full support. When a soldier hears the din of battle raging, you cannot restrain him. He will rush forward. That is quite in accordance with his racial tradition. That is also the sense and spirit of the resolution of my friend Mr. Nur Ahmed, a member of the Muslim Coalition Party (because his amendment is going to be added to the original resolution), by another martial race, another fighting race, the Muhammadans of India. You will get sufficient evidence of their fighting power—the fighting power of the Muhammadans of Bengal—if not in the battlefields, at least, in jails. They can do havoc even without arms and weapons. With a simple *lathi* they can break any number of heads. The martial instinct is there.

Rai KESHAB CHANDRA BANERJEE Bahadur: The Bengalees are not considered a martial race.

Khan Bahadur M. ABDUL KARIM: The Bengalee-Hindus may not be considered to be a martial race. Before I pass on, I must try to satisfy the hon'ble member who has come with his first amendment (Congress). When the question of Indianisation of the Army was being considered, I was a member of the Council of State and the Hon'ble President of the Council was a member of the Assembly. At that time, the report of the Skeen Committee was being considered. To test whether the Bengalee-Hindus belonged to the martial race, a typical person was selected. He was asked "Can you fight?". He said "yes". The Colonel said, "We must have a test about your military instincts before you are admitted". He was made to sit on a chair with a helmet on, in his army dress. Then, the order from the Colonel was, "Look here, my test is this. I am going to fire a shot which will blow off your helmet. If you can sit unnerved, I will consider that you are fit for a military career." He said, "Yes, Sir, I can quite stand the test".

The gun was fired. The helmet went off. He did not move his eyes. He remained unnerved outwardly. Then the Colonel said "His hat has been spoilt, get him a new hat" the gentleman who was seated in the chair, that is, the recruit added "And a pair of trousers too". You can understand the meaning of that. This incident goes to show that the Bengalee-Hindus are not a fighting race.

Rai KESHAB CHANDRA BANERJEE Bahadur: How many Bengalee-Muhammadans are there in the Army?

Khan Bahadur M. ABDUL KARIM: Many. In reply to my friend's argument, I will show him a chart where the number of combatants in the Indian Army are mentioned. Your Bengal has got a big zero, not a single combatant. The Central Provinces have got only 100.

Mr. LALIT CHANDRA DAS: It is due to a disgraceful military policy.

Khan Bahadur M. ABDUL KARIM: Have patience. Government know something which you do not. These are the figures:—

Assam—Nil.

Bengal—Nil.

Punjabis—86,000 in an Indian Army consisting of about 1,76,000 combatants.

United Provinces—16,500.

Gurkhas—19,000.

Madras—4,000.

Bombay—7,000.

Mr. LALIT CHANDRA DAS: It is a disgraceful military policy.

Khan Bahadur M. ABDUL KARIM: My hon'ble friend, Rai Keshab Chandra Banerjee Bahadur, has been pleading for military educaticon in Bengal. But even according to the Skeen Committee's estimate, you cannot have, given all possible facilities, even half the number in the Officers Cadre of the Indian Army before 1952.

Sir, the demand made in one of the amendments is the immediate grant of Dominion Status. I will refer to your own report—the Nehru Report, Nehru, the father and not Nehru, the son. There, it will be seen that he admits that Dominion Status is not possible without an efficient Indian Army. In the face of these facts and figures, how can you press your claim for immediate conferment of Dominion Status upon India.

Mr. HUMAYUN KABIR: You have forgotten your own past history.

Khan Bahadur M. ABDUL KARIM: Do you mean Muhammadan history? I am not going into that. I know your grandfather fought against the British.

Mr. HUMAYUN KABIR: My great grandfather.

Khan Bahadur M. ABDUL KARIM: Yes, I made a mistake. The demand of the Dominion Status forthwith, is an impossible condition. Having regard to these facts, your own authorities and the authority of the Skeen Committee—the Skeen Committee was not composed of Europeans only, it contained 10 representative Indians and its report was unanimous—how can you press your claim? How can you go against these facts and figures? I appeal to the gentlemen of the Congress party with folded hands to withdraw their resolution which says that forthwith after the war, Dominion Status should be conferred on India by the Government of Britain.

Dr. RADHA KUMUD MOOKERJI: Who has disarmed India?

Khan Bahadur M. ABDUL KARIM: Umichand and his descendants.

Mr. LALIT CHANDRA DAS: And Mir Jaffar.

Khan Bahadur M. ABDUL KARIM: The descendants of Umichand disarmed you. Mir Jaffar only played the second fiddle. They were responsible for what happened in 1757. Who disarmed India? Yourselves!

Dr. RADHA KUMUD MOOKERJI: Thank you!

Khan Bahadur M. ABDUL KARIM: You are responsible for that. The sins of parents are visited upon their descendants up to the fourth generation, according to the Bible and according to Hindu Shastras, till eternity until the atonement is made. You did every possible wrong to India and now you turn round and say "The Muhammadans are the reactionary elements. You say that the Government has adopted the policy of "divide and rule" to keep up their sovereignty. That is not a fact. I will now refer you, gentlemen, to another point: as to how the Muhammadan element in Indian politics came to be recognised by the British Government?

I have been in the political sphere for the last 40 years of my life, and I can tell you something from my personal and direct knowledge. In the year 1906, immediately after the partition of Bengal constituting Eastern Bengal and Assam, a predominantly Muhammadan area, into a separate province, you organised that historic agitation. The British Government gave way to your agitation. Mr. Gokhale was there in London; you sent him to London as your deputy to represent the cause that the Bengali nation should not be divided. Mr. Gokhale delivered a lecture at Caxton Hall there in the year 1906. The first voice of protest was raised by the Right Hon'ble Sir Syed Ameer Ali. Then he was a member of the Privy Council. He said: "What do you say? Do you say that Hindus represent the whole of India?" There was that Muhammadan voice, and that voice was raised for the first time in the year 1906 and as a result what do you find? In the Morley-Minto Reforms of 1906-1907, you find that there is something as the Muhammadan interest in India. Your Congress had captured the imagination, from the beginning, of the Europeans, Americans and other foreign nations which were under the impression that there was only one organisation representing India and that was the Indian National Congress. After Sir Syed Ameer Ali raised that discordant note, they came to realise for the first time that there was also a body whose case had also to be considered, and therefore you find that for the first time Muhammadan claims and aspirations were recognised in the Morley-Minto Reforms. (Dr. RADHA KUMUD MOOKERJI: There were Muhammadan Congress Presidents also!) Yes, but there are black sheep in every country. Mr. Jinnah was also a black sheep of your fold up till the year 1915 before he joined the Muslim League. Those who have been with you before and have seen your inner workings cannot afford to stay one single minute more with you. Mr. Fazlul Huq, the Premier himself, was a member of the Congress party. Maulana Akram Khan of my party was, you know, a member of that party. The very fact that they have seceded from you shows that there is something hollow and rotten in your constitution.

(There were interruptions at this stage from the Congress benches).

Sir, I wish to have a plain-sailing. If you do not want to hear something tough and hard, do not interrupt me like that. I am anxious to persuade you and not to exasperate you, and therefore I will plainly state my case. You said that the British Government is responsible. Well, we have not got much love for the British Government (cries of "Hear, hear" from the Congress benches), naturally and historically, for the simple reason that we lost our kingdom only some 150 years ago. The sore has not yet healed up, but with you the loss of sovereignty in India is a question of past history, if not of tradition. Therefore, you have clean forgotten the art of Government. Leave it to human nature. Human nature is what it is, and so you are likely to be more friendly to the Europeans than we can afford to be. It

may be that in course of time we too shall forget what wrongs were done to us. (Dr. RADHA KUMUD MOOKERJI: What about the Mahrattas and Sikhs? They were the last rulers.) My simple answer to that is that they are of the same kidney (Laughter.) Your creed is that Hindusthan is only for the Hindus, and the later day development of that creed is that it is for the caste Hindus only. You have not been able to keep your own people within your fold. They have gone out of your way. The Madras people, the scheduled castes—they all belonged to your kith and kin. You have not been able to manage your own household. How can you expect to manage us and the Princes? (Laughter from the European benches.) (DR. RADHA KUMUD MOOKERJI: What about the Shias?) অত কথার উত্তর দিতে পারি না। (Laughter.) You charge the British Government with insincerity. I have got some figures before me. After the Government of India in the days of the three Presidencies came by transfer from the East India Company to the Crown, that is to say, in the year 1858, a study of the course of legislations—I mean constitutional legislation for the country—will at once open your eyes. If you go through papers, statutes and books, they will at once clarify your ideas that, as a matter of fact, in the beginning you were led by a nurse appointed by the Europeans. You began to walk: you could succeed in walking unaided; and when you had allowed your moustache to grow like that (Laughter), you began to clamour for rights. Those rights were duly given to you, as will be evident from the course of successive legislations. I have no time to amplify. I will only refer to the enactments. The first legislation was in 1861, i.e., after the assumption of the Government of India by the Crown, that is to say, by the British Parliament and the King, and you got a declaration from Her late Majesty, Queen Victoria in 1858, and a legislation was made by the India Councils Act of 1861. You were allowed to sit there by courtesy and to make suggestions though Government was not bound to accept your suggestions. Then came the next legislation in 1892, i.e., after 31 years. No further legislation was demanded nor made in this interval. The interval is also very significant. 1861 and 1892, Lord Ripon, another sympathetic Viceroy, though of imperialist origin, conferred on you certain rights by way of the grant of local self-government. Then the next legislation was in 1909, i.e., 17 years after that. The first interval is 31 years, then 17 years, then 10 years that is to say the Montford Reforms after the Morely-Minto Reforms of 1909. Consider the interval. The more you were able to walk, the longer the rope was allowed to you. Then came this Act of 1935. Well, if you trace the privileges and rights gradually conferred upon the Indian people, you will at once find that the British Government has been generous to you beyond measure. I remember that Sir Ashutosh Chaudhuri—you know that eminent Advocate and afterwards a judge of the High Court—was presiding over the Hooghly conference (Dr. RADHA KUMUD

MOOKERJI: Not at Hooghly but at Burdwan.) Yes, I made a mistake. I am an old man. (Laughter.) I remember only the broad facts. Well, he said "A subject race has no politics." That was in the year 1906, when the Government had not decided upon revocation of the Partition which was done in the year 1912. From that depth of pessimism of 1906, you find that as a matter of fact you were delivered in 1912 and I must say, that was the greatest blunder that the British Government ever committed in India, namely, the modification of the Partition. You took courage. The British Government got frightened and made any number of concessions to you. That was the greatest blunder, the pernicious after-effects of which they have been reaping since then. You crushed innocent Muhammadans by tyranny of agitation and the Government also helped you, which had the indirect effect of materially crushing us. But there is a God; there is a Divinity. You got emboldened after that and kept on saying, "I want this; I want that." At the time of the Round Table Conference, I myself deposed before Sir John Simon's Statutory Commission. You were also invited to attend; you did not care to attend; you sent Pandit Nehru's father's report on Constituent Assembly reforms, etc., because Lord Birkenhead had challenged you and said, "Let India come forward. Let them make out a constitution themselves, and let us see if we could act accordingly." Nehru's father's report which contained the germs of a constituent assembly was thoroughly and critically examined, weighed in the balance and found to be no better than a Dead Sea Apple which was reduced to powder at the first touch. You pleaded that you did not want the British Parliament and the British people to make a constitution for you. In the meantime, the Hindu and Muhammadan trouble was going on. So long you did not care to settle the differences though our hand of fellowship and friendship was offered to you more than 100 times. (Mr. SHRISH CHANDRA CHAKRAVERTY: As you are doing now!) (Laughter.)

Sir, may I have 10 minutes more, because my friends, wanted some useful information, and I think I gave them good replies. (Laughter.)

Why this disrespect to Sir John Simon? You did not care to appear before him nor did the majority of you appear before the Round Table Conference. Mahatma Gandhi spoke for you, and now you come down upon him—you Bengali people—and say that he had no authority to commit yourselves and depose before the Round Table Conference as he did. Even now Mr. Gandhi gave an assurance to His Excellency the Viceroy: "We are going to support the British Government unconditionally, but দশচক্রে ভগবান ভূত। (Laughter), i.e., even God himself becomes a Devil when surrounded by ten satellites.

I have got all these papers with me, but unfortunately, I have no time to reply in detail—well, Mr. Gandhi finds that his fellows and disciples are too powerful for him, and he observes his silence while

Dr. Rajendra Prasad writes to the Viceroy saying "until that question is decided, we cannot take up the question of Hindu-Muslim unity. Tell us when you are going to give us Dominion Status and then we shall try to settle the difference between all communities and have an agreed constitution". You insist on that point. Dr. Rajendra Prasad adds: "Gandhiji is with us." We have offered the hand of fellowship to you more than 100 times. You have rejected it. Government have come forward more than half-way to shake hands with you, but you have tried to avoid them like plague. Your conduct from the very beginning of the political history of this country has not been honourable, consistent with the high traditions of your race, your culture, your creed, your philosophy and of enlightened India. My friend Mr. Lalit Chandra Das made an unbecoming statement the other day to the following effect: "You were living in caves referring to the pre-Druid history, and now you want to dominate over an ancient civilization and ancient culture. We were cultured when you were roaming as barbarians". Might not Mr. Chamberlain say in reply, "We, British, have given you, half-naked people, to appear in English dress with collar, long coat, tie and all that".

Mr. LALIT CHANDRA DAS: With whose money?

Khan Bahadur M. ABDUL KARIM: Cannot Mr. Chamberlain say like that? Don't talk big things. Know thyself. If you want to make a proper study of mankind, know thyself. He should not have made that sort of statement for which I think he ought to apologise to the group that is affected by that sort of remark. Now, following the argument in the same strain, I would say, we are not going to allow the British to leave the shores of India, because we gave them civilization in the long past. Islam spread civilization in the 13th century of the Christian era throughout Europe. The British must stay here, must educate us properly and thus repay the old debt with compound interest. We could demand their presence arguing in that light. We can also demand the presence of the British until they have paid their old debt in full.

Mr. SHRISH CHANDRA CHAKRAVERTI: You have got your communal award.

Khan Bahadur M. ABDUL KARIM: The communal award was not brought about by me. I leave it to you to consider Mr. Nur Ahmed's amendment which has been worded in such a way as to make a sort of Noah's Ark after the deluge in which any kind of species, animals, birds, and insects, can find a place of refuge. The resolution of my party has been worded like that. If you are not satisfied with communal award as embodied in the present Government of India Act,

you can ask the British Government to revise it at the time of the next advance or the next milestone. It will accelerate the pace of your advance.

There is one incorrect statement made by Dr. Radha Kumud Mookerji. He said that in the year 1922 in the instrument of Instructions to Lord Reading there was a mention or a reference to India acquiring Dominion Status. After that by some sort of trick, by some sort of *chalaki*, this was not referred to at all afterwards. Therein he is mistaken. We find that in the year 1923 there was a reference to Dominion Status in the Instrument of Instructions to the Viceroy, the King himself definitely proclaiming through his Viceroy. "The Dominion Status is the goal. India should form an integral part of the British Commonwealth of Nations and occupy a status equal to a Dominion". Not only that, in 1929 there was a reiteration of that in my time when I was a member of the Council of State, I remember that when the Viceroy addressed both Houses, he said things like that. Even in the present instance after you asked the Viceroy to make a pronouncement, he is quite clear.

Dr. RADHA KUMUD MOOKERJI: When will it be?

Khan Bahadur M. ABDUL KARIM: I am reading the Viceroy's pronouncement "I would add that the Instrument of Instructions issued to me as Governor General by His Majesty in May 1937—lays upon me as Governor General a direction so to exercise the trust which His Majesty has deposed in me—this is the exact quotation from the Instrument of Instructions—'that the partnership between India and the United Kingdom'—no question of subordination but partnership—'within our Empire may be furthered to the end that India may attain its due place among our Dominion'." When you were satisfied on that point, the next move of yours was a petulant move. Don't take offence because I do not find a better English word than that for expressing my idea. If there is any defect in my language, I hope you will excuse me. You said "I want it just now" when you found that you were properly silenced by a reference to the Instrument of Instructions.

Dr. RADHA KUMUD MOOKERJI: That was in 1929.

Khan Bahadur M. ABDUL KARIM: This was in May 1937.

Dr. RADHA KUMUD MOOKERJI: That was the repetition of 1929.

(There were other cries from Congress benches.)

Khan Bahadur M. ABDUL KARIM: I am not going to reply to uninformed criticism. Even after that, what is your next move. "Oh, I find here is a declaration. In that case, I want it "just now". You said so just like a petulant child. The father says, "If you go on reading like this, I will give you a horse to ride". The child at once begins to pester the father "Give me a horse". But the father knows that if the child is given a horse, he will have a fall—we have seen that in the last two years of Congress administration—and get his limbs broken.

Mr. RANAJIT PAL CHOUDHURY: That was a rocking horse!

Khan Bahadur M. ABDUL KARIM: Just reason with me. The attitude that you have taken up is not proper and cannot be justified. Therefore, I would appeal to you to withdraw your resolution.

Dr. RADHA KUMUD MOOKERJI: 1939 will be the same as 1929.

Khan Bahadur M. ABDUL KARIM: Then, with regard to the other resolution—I have to reply to the charges—there is that Brahmin resolution.

Mr. SHRISH CHANDRA CHAKRAVERTI: Which one?

Khan Bahadur M. ABDUL KARIM: The amendment of Rai Keshab Chandra Banerjee Bahadur. There is nothing objectionable in that. But in my humble opinion it is quite unnecessary. He speaks of a readiness. As against the whole-hearted support of a Kshatriya member, the Brahmin says "We are ready", thereby implying "Make us some offer and we will enter the hall".

Rai KESHAB CHANDRA BANERJEE Bahadur: Because he does not belong to the martial race.

Khan Bahadur M. ABDUL KARIM: Because in eight provinces the Congress ministries have resigned, he says "We are ready, just beckon to me again". Therefore my submission is that these two things cannot stand together. One is whole-hearted support and the other is only readiness. It is still in the preparatory stage and not even the attempt has been made. If we accept the resolution, the amendment gets merged into it.

Then, as for the loyalty to the Throne which I think is intended mostly to please Mr. Hunter, that is a thing which need not be mentioned at all. To you "Delhiserova Jagadiswarava". He is a divine person. You need not proclaim that you are loyal to him. To a

Muhammadan his religion tells him that the King is..... "*Zillallaho*", that is to say, the King is the shadow of God. That is said only for the purpose of capturing the imagination or sympathy of the British people. But practically in so far as you insist on that amendment, you simply mean "we are ready to enter the threshhold which we have left. We want only some patting on the back. Then, you will find that we are ready to accept office". That is the spirit of Mr. Kamini Kumar Dutta's resolution also. I will make a passing reference to it and then I will sit down. His resolution says, "The Government of Bengal should convey to the Government of India and through them to the British Government that in consonance with the avowed aims of the present war it is essential that in order to secure the co-operation of the Indian people....." Mark the words "it is essential ". The point we particularly notice is "in order to secure the co-operation of the Indian people, the principles of democracy and self-determination with due safeguards for minority interests should be applied, etc., etc." You don't say either Yes or No. You lay down a hypothetical proposition, a proposition of politics or of psychology. You don't say either Yes or No. You are simply sitting on the fence just to jump down as soon as the Viceroy will call you a second time. Therefore, Sir, that does not agree with the whole-hearted support. If it is half-hearted, it remains in the sub-conscious region of the heart. We can ignore that also. As for the other matters, I have already explained. One move of my party which has already been supported by some of its prominent members—this is a hall of all nations,—which I ask you to support is this: "This Council further approves of the policy of the Bengal Government towards the present international crisis in condemning Nazi aggression....." and this is to be tagged on to the original resolution, "and declares its determination to resist this aggression and to protect the security and honour of the province of Bengal and India with all available resources of the province". This is a matter to which the European Group might have some objection,—I do not know. It means this. Our resolution says in plain words: we give our whole-hearted support to the war aims and to the prosecution of the war, but, Sir, the spirit of the resolution is, India is poor so far as money and men are concerned. Don't take our money and men to fight the battles in European lands. The last war has made us insolvent.

Mr. PRESIDENT: You have explained the meaning several times.

Khan Bahadur M. ABDUL KARIM: I have to explain the significance of the resolution.

Mr. RANAJIT PAL CHOUDHURY: Make it interesting.

Khan Bahadur M. ABDUL KARIM: The resolution says: "It further desires that it should be forthwith made absolutely clear—that is intended to satisfy the people to some extent—but the main point is clear. If we have a provision like that, we are not going to operate until a real apprehension of danger to India arises. Only when the enemy is moving forward towards India, it will come into operation.

Mr. SHRISH CHANDRA CHAKRAVERTI: What is the inner meaning?

Khan Bahadur M. ABDUL KARIM: Have patience. It further desires that it should be made forthwith clear that the Constitution of India shall be examined *de novo* at the end of the war with a view to the immediate attainment of the objective of Dominion Status with effective protection of the due rights of the minorities and other sections in consultation and agreement with all the parties and communities concerned.

Mr. LALIT CHANDRA DAS: Is it immediate attainment of Dominion Status?

Khan Bahadur M. ABDUL KARIM: No, only recommendation: *de novo* re-examination of the Government of India Act.

Mr. SHRISH CHANDRA CHAKRAVERTI: By whom?

Khan Bahadur M. ABDUL KARIM: By the British Parliament that made it. We have inserted this to satisfy the cravings of many hearts in many quarters that we are not satisfied with the present Government of India Act. It is a feeling which is uppermost or may be underneath the bottom of your heart.

Mr. SHRISH CHANDRA CHAKRAVERTI: Muslim League also says that.

Khan Bahadur M. ABDUL KARIM: That will satisfy the cravings of hearts of all the parties concerned; and it is only to afford satisfaction to them that we have put it there. And the other resolutions are entirely in accordance with it. (Mr. LALIT CHANDRA DAS: Is it the immediate attainment of Dominion Status?) You are not fit for it, (Laughter from Congress benches). Lord Sinha presiding over the Indian National Congress at Bombay in the year 1915—and he was the most capable man who was elevated to the position of a Governor—said: "Time is not yet." And immediately within two years, you find the generosity of the British people overdoing the thing in consideration

of the services rendered by the people of the Punjab and other provinces This was hastened by their act and not by the act of the Bengalis. Therefore, Sir, with a clear conscience I would ask the Congress Party to withdraw their amendment. If my friend, the Rai Bahadur, would not like to withdraw, I have no objection to have it, although I think he should also withdraw.

Mr. D. J. COHEN: Sir, in supporting the resolution moved by Rai Surendra Narayan Sinha Bahadur as amended by Rai Keshab Chandra Banerjee Bahadur, I wish to associate myself with the sentiments expressed. The cause for which Britain has entered the war is one that has appealed to everybody, irrespective of race or creed and should have evoked an enthusiastic response from everyone of us to stand by her and do our bit. It is, therefore, unfortunate that advantage should be taken of Britain's difficulties and formulate a condition precedent to secure Indian co-operation.

I realise the importance attached to the subject-matter of the other amendments but I feel that that should be brought up separately for discussion as independent propositions. For the present, I feel it both incumbent upon us and in the interest of India to put forward a united front and portray to the world that India is one with Great Britain in the condemnation of the barbarous methods employed by aggressive nations to dominate weaker powers and to upset all that humanity has evolved, and our firm determination to place all India's resources at the disposal of Britain to help her to bring the war to a successful finish.

Mr. KRISHNA CHANDRA ROY CHOWDHURY: Sir, I give my solemn assurance that I will not take more than a minute or two. (Laughter.)

Sir, as a representative of the working-class trade union movement, (Mr. SHRISH CHANDRA CHAKRABARTY: Government representative!) I mean, the Bengal Chamber of Labour which comprises 90 of the leading trade unions of Bengal's industries including marine and in fact every type of large-scale industry of this province, I would support the amendment that stands in the name of Mr. Nur Ahmed. My reasons are these.

Sir, to talk of a Constituent Assembly! Granting that the British Government by being over-pressed yields to the demand for a constituent assembly, may I know, who are going to sit in that Assembly as delegates to represent the real interests of labour? Not certainly, men like Sir Stafford Cripps who poses to be a Labour man without ever earning wages by the sweat of his brow. Ninety per cent. of the people of India are toiling masses including cultivators and industrial workers. I say, it is simple madness to think of devising a constitution through a constituent assembly representing all classes of Indian

people who are going to represent the 220 million working-classes including the cultivating classes? Will Messrs. Jawahar Lal Nehru or Subhas Chandra Bose represent them? (Mr. LALIT CHANDRA DAS: Question.) Dominion Status implies adult franchise. It was all right for the British Parliament to grant Dominion Status to Canada or New Zealand because these countries were developed by the toil of the working-classes and farmers with some education and political intelligence. But in India, a Constituent Assembly to devise a constitution for the maximum protection of the majority of its people requires that the working-classes should have a hand in shaping the constitution. There must be some time before the working-classes acquire more education, more political intelligence and more understanding so that they may not be mere tools for exploitation in the hands of all sorts of people, advocating communalism, congressism and all those "isms" which exist to-day——

Mr. RANAJIT PAL CHOUDHURY: And nominationism too. (Laughter.)

Mr. KRISHNA CHANDRA ROY CHOWDHURY: Until and unless the working-class people of India acquire intelligence and political training and education, politicians representing the so-called classes will dictate what sort of constitution the working-classes will require.

I think that in various parts of the world when a new constitution was drafted the labouring classes demanded as a fundamental right that a house should be provided for each worker. I can quote from the German constitution immediately after the last war (Laughter), when Nazism was unknown, to show that it provided that every working-class man must have a house and must have old age pension. These are fundamental rights which will hardly appeal to the political leaders who are to-day demanding the right to draft India's constitution. Do you think that Congressmen, even Moslem League men will go so far as to ensure in the constitution that every working-class man including cultivators must have a house of his own at the cost of tax-payers or that every old man should have pension. I can give you various other items of such fundamental rights. Therefore, I say and maintain that to continue the British connection is the aim and should be the aim of the working-classes until and unless they are well-organised by their own natural leaders and acquire a satisfactory status. When that happens, they themselves will be able to judge what type of constitution will suit them best.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, speaking on behalf of Government, I should like to state that Government are supporting the resolution that has been moved by Rai Bahadur Surendra Narayan

Sinha read with the amendment that has been moved by Mr. Nur Ahmed.

Before I proceed to deal with these two resolutions and the other amendments that have been moved, I would like to make the point clear about Government not moving a resolution of their own in this House.

It is very regrettable that this has been misunderstood. The facts are that when Government received notices of resolutions from the members of this House they found that there was a resolution which Government could support. Now, since those resolutions came from three persons who belonged to the party that support Government, it was only fair that those members should be given the right and privilege of moving them. The position was different as far as the other House was concerned. There was no non-official resolution moved there on this subject. But naturally, when the resolution was once moved here, the thing had to be moved there too, and so there Government had to move a resolution of their own. This is the simple explanation as to why Government did not think it necessary to move a resolution in this House.

Now, Sir, I find that the resolutions which Government are supporting have received the support of the majority of members of this House and what is more, speaker after speaker has condemned the Nazi aggression and clearly expressed opinions supporting the British Government in the prosecution of war. Sir, we have got here in Bengal a Coalition Ministry, and there are in it Ministers who belong to the Muslim League and there are Ministers who belong to other parties. But as far as the policy of the Ministry is concerned, there is unanimity in giving whole-hearted support to the British Government in the prosecution of the war. And, therefore, if Government give their whole-hearted support to the motion that has been moved by the Rai Bahadur, I feel, Sir, that it is not necessary to enlarge upon the reasons why this support is necessary. Speaker after speaker, as I have said before, has condemned the manner in which Hitler has involved Europe into war. There is no person now-a-days who is in favour of war, and it cannot be denied that, as far as the British Government and France are concerned, every endeavour was made to avoid war. It is surprising that no one has mentioned here that those who condemn Great Britain as far as this war is concerned, were the very people who after the Munich agreement went about saying definitely that the British Government were afraid to go to war and that they were prepared to make every concession to keep out of it. It was talked about openly and commented upon in the newspapers; but when the British Government make a final stand and feel that the situation has become such that it was no longer possible to keep on making concessions for avoiding war, then those very persons who condemned Britiain

for not going to war earlier, Sir, condemn Great Britain for going to war. Sir, I do not think there can be any more clear justification than the fact that newspapers in India, in Great Britain and in other countries openly disapproved of what was done during the Munich agreement, and after the manner in which Germany overran Czechoslovakia and then invaded Poland, I ask you—was it possible for Great Britain to remain silent and not to go to war, especially in view of the fact that they had promised support to Poland?

Sir, several speakers have said that Great Britain has gone to war for the sake of democracy. I doubt if this is correct. After all there was no democratic form of government in Poland (Cries of "Hear, hear" from European benches), but what Great Britain went to war for was the protection of weaker and smaller nations against the aggression of strong and powerful neighbours who were deliberately bent upon depriving the weaker and smaller nations of the independence and liberty that these countries enjoy. (Mr. LALIT CHANDRA DAS: And not in defence of democracy?) Certainly, as far as I am concerned, I maintain that democracy has nothing to do with it. Sir, the fundamental principle behind this war is protection of the weaker and smaller nations. It is only for the defence of the weak and unprotected nations against the aggression of mighty powers who were bent upon destroying the independence of weaker nations. (Mr. LALIT CHANDRA DAS: Did not Mr. Nevile Chamberlain say that England went to war for democracy and freedom?) That is the opinion, Sir, which I hold. The honourable member may hold a different view. What I stated is also a question of fact.

Mr. LALIT CHANDRA DAS: I want to know whether Mr. Chamberlain has said that.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, the basic reason for declaration of this war was to create conditions—

Mr. HUMAYUN KABIR: May I ask the Hon'ble Minister whether the opinion that Great Britain is not fighting for democracy is his personal opinion or whether it is the opinion of the Government of Bengal?

The Hon'ble Khwaja Sir NAZIMUDDIN: That is my personal opinion, and I judge it from the events that have taken place so far.

Mr. HUMAYUN KABIR: In view of what has happened before, can the Hon'ble Minister give his personal opinion?

Mr. PRESIDENT: Order, order. The hon'ble member can only interrupt if the Hon'ble Minister gives way.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, there is another thing to which I would like to draw the attention of the hon'ble members of this House. Here, resolutions have been moved demanding complete independence and also resolutions have been moved asking for the right of India to frame her own constitution by means of a Constituent Assembly. And what is more important, it has been said that as far as the minorities' problem is concerned, this is purely a domestic issue. Great Britain should not worry over this but should leave it to us, and we will look after it. Sir, I am surprised that this minority problem is looked upon as a minor domestic issue. If people will only think of what is taking place in Europe, if people will only realise that it is the minority problem that has provided the main excuse for Hitler to start this war, and that it is the minority problem that induced Hitler to take over Czechoslovakia, Poland and Austria, then they will not say, "The minority problem in India is a domestic problem, leave it alone; we will solve it ourselves." In spite of the fact that the best brains of Europe made every effort to give protection to the minorities in these European countries, in spite of the fact that very vast rights and privileges were given to the minorities,—rights and privileges which cannot even be conceived of in India,—still the minorities were dissatisfied and unhappy, and as far as I have read, according to the report of Lord Lothian who investigated into the question of the Sudetan Germans, there was justification to a certain extent for the grievances which the Sudetan Germans had against the Czechoslovakian Government. So, I want the House to realise that the minority question is not a problem that can be ignored, and specially the minority problem in India is a problem which you cannot ignore. And those people——

Dr. RADHA KUMUD MOOKERJI: Who are the minorities in Bengal?

The Hon'ble Khwaja Sir NAZIMUDDIN: If, those people who are asking for complete independence, if those people who are asking for Dominion Status, if they are genuine in their desire, if they honestly believe that they want India to have Dominion Status, then I am sure that it is their first duty not to treat the minority question as a domestic question and an insignificant question to be settled as they like. Safeguards have proved ineffective in Europe, safeguards have been worthless as far as India is concerned; safeguards alone are not going to solve the problem. If you honestly want it, you have got to get the consent and approval of the minorities; somehow it has got to be done, and that is the only way by which you can achieve your goal. It is no use refusing to face facts. Supposing, after the Great War, as one speaker has said regarding the services that India rendered during the last Great War, supposing for the sake of argument that Great Britain had conceded complete Dominion Status, the safeguards

would have been the same as have been provided in the Government of India Act, 1935. What would happen to India then? Can anybody conceive that there would have been a civil war all over the country. In spite of the fact that there was no Dominion Status but only Provincial Autonomy, absolute Provincial Autonomy in the provinces, what was the result? Was there a week or a month throughout India when you did not have communal riots, when heads were not broken, when blood was not shed and when people were not killed?

Mr. LALIT CHANDRA DAS: What is the proof?

The Hon'ble Khwaja Sir NAZIMUDDIN: This does not require proof. If you kindly open your newspaper, you will find at a glance that in Bihar and the United Provinces, there was hardly a week when there was not a communal riot.

Dr. RADHA KUMUD MOOKERJI: What about the minorities in Bengal?

The Hon'ble Khwaja Sir NAZIMUDDIN: The minorities here never had to face any communal riots; they never have any grievance whatsoever.

Mr. LALIT CHANDRA DAS: Question.

The Hon'ble Khwaja Sir NAZIMUDDIN: It is no use merely shouting "question". Any one who looks into the statement that has been published by Dr. Shyama Prasad Mookerji about the grievances of the minorities will be convinced by reading it himself. No explanation from Government is necessary. See how ridiculous the whole thing is! What are the complaints? The Agricultural Debtors Act and the Money-lenders Bill—a thing which has been passed by Bihar, United Provinces, Bombay, Central Provinces and all these provinces.

Mr. SHRISH CHANDRA CHAKRAVERTI: Yes, passed on different grounds.

The Hon'ble Khwaja Sir NAZIMUDDIN: Were they directed against the Hindus in Bihar, were they directed against the Hindus in Bombay and U. P.? It is ridiculous to suggest that the minorities have been unfairly treated. I would like to assure the House that looking at this question entirely dispassionately and purely from the Indian point of view, I feel that all those and all of us who want to see India progress,

who want to see that we get Dominion Status as envisaged by the various statements made by the Viceroy, the Secretary of State and others, it is our duty,—it is no use blaming the British Government,—to solve the minority question and to see that we do come to an agreement. I can assure you that under no circumstances whatsoever, if the minorities are not satisfied, you can have any kind of responsible government functioning successfully in India. Therefore, I consider this question to be of vital importance.

Then, with reference to the demand for a free India, for complete independence, for Dominion Status, I may say that so far as Great Britain is concerned, I feel that their policy is clear. The responsibility now lies on the Indians. Let them settle their differences and if afterwards Great Britain fails in its duty, then we have got a clear-cut case that Great Britain has failed.

Now, Sir, for a minute I will turn to the speech of my friend Mr. Humayun Kabir. The speech that he delivered the other day in this House will be considered brilliant and excellent if it had been delivered in the debating hall of the Oxford Union. But I feel, Sir, that in the chamber of the Bengal Legislative Council it was to a certain extent misplaced. It ignored facts, it did not face realities and what is more, it showed that he did not have any knowledge of what had taken place in India during the last ten or fifteen years. Mr. Kamini Kumar Dutta said, "Give us a Constituent Assembly and we will sit together and solve our problem. There will be no difficulty as far as the question of coming to an agreement is concerned. Leave alone the Constituent Assembly." Sir, a Constituent Assembly in a country where the electorates are hopelessly illiterate, where the electorates have found it difficult to distinguish between a Central Government and a Provincial Government! To ask such electorates to express an opinion on Dominion Status, safeguards, rights of minorities and various interests, is absurd. It is absurd to suggest that.

Mr. SHRISH CHANDRA CHAKRAVERTI: Only representatives will be sent to the Constituent Assembly.

The Hon'ble Khwaja Sir NAZIMUDDIN: What chances are there of coming to an agreement in a Constituent Assembly? We find that in the past when the Congress appointed a Committee to draft a constitution for India, mind you, the Muslim representatives of that Committee were not picked up from the dustbin of negligence of public opinion but from men belonging to the Congress Party, the so-called patriots, nationalists, progressive elements. They were the members of the Nehru Committee. What was the result? That report now lies in oblivion.

Dr. RADHA KUMUD MOOKERJI: But that was signed by Mr. Jinnah.

The Hon'ble Khwaja Sir NAZIMUDDIN: That was rejected by the Congress Muslims—leave alone the others, the so-called Khan Bahadurs, Knights and the Nawabs. The Nehru Committee report could not even satisfy the Congress Muslims. Sir, Mr. Humayun Kabir is ignorant of the efforts made by the Unity Conference at Allahabad. Was not every effort made to tackle it then? Again, the Muslims invited to attend that conference were not those picked up from the dustbin of negligence of public opinion. The so-called patriots were again there and they failed to come to an agreement. So, Sir, my personal opinion is that as long as the Congress will try to manœuvre in such a way that "heads I win and tails you lose", there can be no unity in India, no agreement on the minority question. A fair and square deal by the minorities is bound to bring about unity and in this connection I would like to address a few remarks to the politicians in Great Britain, particularly to the leaders and members of the Labour Party. They have so far always considered the question of India from the point of view only of the Congress and through Congress eyes. Congress with its funds, with its propaganda, with its newspapers, have always been before them. The Labour leaders who have come and Labour M.P.'s who have visited India have had the benefit of "conducted tours" organised under the auspices of the Congress. No Labour M.P. has been allowed to see any other person but those who share Congress views. They come here and go back only learning, hearing and seeing what the Congress have told them. Sir, it is most surprising that they have never taken the trouble to see men who hold different views, who belong to different parties and who also have got vital interests in the country. My appeal to the British Labour Party and Labour leaders is that they have always championed the cause of the minorities, and championed the cause of the weak and the oppressed. Let them not advocate a policy in India which is going to ruin and annihilate the minorities. That is all that I have to say. Let them study the problem in all its aspects. Let them understand the problem of the minorities as well and then, and then only, can they come to a definite decision on the problem. Let them not be carried away by one side of the picture only as represented by the Congress.

Mr. SHRISH CHANDRA CHAKRAVERTI: You are at liberty to invite them.

(A VOICE: To whom are you referring?)

The Hon'ble Khwaja Sir NAZIMUDDIN: I am not referring to anybody else. I am only referring to those Labour leaders and Labour

M.P.'s who are in Great Britain at the present time. Now, Sir, I repeat that as far as India is concerned, as far as our province is concerned, it is my honest conviction that it will be a most unfortunate day for India, it will be a disaster for India if—God forbid!—Great Britain and France were to lose this war. Great Britain must win this war at any cost, but at the same time, we rely and trust that if with our support the war will be won, and if meanwhile we can achieve amongst ourselves agreement and unity, Great Britain will not be behindhand in giving us what we want. (Loud applause.)

Mr. PRESIDENT: The question before the House is the resolution moved by Rai Surendra Narayan Sinha Bahadur that: this House is of opinion that whole-hearted help and support should be given to the British Government in the prosecution of their war against the German menace; since which several amendments have been moved. I shall put those amendments first. I would warn the honourable members that in casting their votes they should remember that if they accept any alternative amendment, then the resolution and the other amendments will automatically fall through. I shall first put before the House the amendment of Mr. Humayun Kabir which runs as follows:—

That for all the words of the resolution as drafted, the following be substituted, viz.:—

This Council associates itself with the world-wide abhorrence of the aggressive and ruthless methods pursued by the Imperialistic Governments of the world against the smaller and weaker nations and dependencies and reiterates its complete disapproval of the manner in which India has been made a participant in the war against her consent.

This Council therefore directs Government to convey to the Government of India and through them to the British Government that in consonance with the professed aims of the present war, it is essential, in order to secure the co-operation of the Indian people, that principles of democracy and freedom should forthwith be applied to India and her policy should be guided by her people; and that India should be recognised as an independent nation entitled to frame her own constitution through a Constituent Assembly to be elected on universal adult franchise with sufficient and effective safeguards for the recognised minorities and their interests.

The House divided with the following result:—

AYES—12.

Chakravorti, Mr. Shrish Chandra.	Mookerjee, Mr. Naresh Nath.
Das, Mr. Lalit Chandra.	Mookerji, Dr. Radha Kumud.
Datta, Mr. Bankim Chandra.	Pal Choudhury, Mr. Ranajit.
Dutta, Mr. Kamini Kumar.	Poddar, Mr. H. P.
Kabir, Mr. Humayun.	Roy, Mr. Amulya Dhone.
Maitra, Rai Bahadur Brojendra Mohan.	Sanyal, Mr. Sachindra Narayan.

NOES—35.

Ahmad, Khan Bahadur Naziruddin.
Ahmed, Mr. Mesbahuddin.
Ahmed, Mr. Nur.
Baksh, Mr. Kader.
Barua, Dr. Arabinda.
Chowdhury, Khan Sahib Abdul Hamid.
Chowdhury, Mr. Khorshed Alam.
Chowdhury, Khan Bahadur Rezzaqui Haider.
Cohen, Mr. D. J.
D'Rozario, Mrs. K.
Ellahi, Khan Bahadur S. Fazal.
Haider, Nawabzada Kamruddin.
Hossain, Khan Bahadur Saiyed Muazzamuddin.
Hossain, Mr. Latafat.
Hossain, Mr. Mohamed.
Hunter, Mr. H. C. A.
Huq, Khan Bahadur Syed Muhammad Ghaziul.
Ibrahim, Khan Bahadur Maulvi Mohammad.
Karim, Khan Bahadur M. Abdul.
Khan, Khan Bahadur Muhammad Asaf.
Laidlaw, Mr. W. S. G.
Mackay, Mr. H. G. G.
Molla, Khan Sahib Subidali.
Momin, Begum Hamida.
Ormond, Mr. E. C.
Rahman, Khan Bahadur Ataur.
Rahman, Khan Bahadur Mukhlesur.
Rashid, Khan Bahadur Kazi Abdur.
Ray, Mr. Nagendra Narayan.
Roy, Rai Bahadur Radhica Bhusan.
Roy Chowdhury, Mr. Krishna Chandra, O.B.E.
Ross, Mr. J. B.
Scott-Kerr, Mr. W. F.
Sen, Rai Sahib Jatindra Mohan.
Singh Roy, Mr. Saileswar.

(The amendment was negatived.)

Mr. PRESIDENT: The next amendment to be put before the House is that of Mr. Nur Ahmed, namely, that at the end of the main resolution, the following be added, viz.:—

This Council further approves of the policy of the Bengal Government towards the present International crisis in condemning Nazi aggression and declares its determination to resist this agrression and to protect the security and honour of the Province of Bengal and India with all available resources of the Province. It further desires that it should forthwith be made absolutely clear that the constitution of India shall be examined *de novo* at the end of the war with a view to the immediate attainment of the objective of Dominion Status with effective protection of the due rights of the minorities and other sections in consultation and agreement with all the parties and communities concerned.

The House divided with the following result:—

AYES—27.

Ahmad, Khan Bahadur Naziruddin.
Ahmed, Mr. Mesbahuddin.
Ahmed, Mr. Nur.
Baksh, Mr. Kader.
Barua, Dr. Arabinda.
Chowdhury, Khan Sahib Abdul Hamid.
Chowdhury, Mr. Khorshed Alam.
Chowdhury, Khan Bahadur Rezzaqui Haider.
D'Rozario, Mrs. K.
Ellahi, Khan Bahadur S. Fazal.
Haider, Nawabzada Kamruddin.
Hossain, Khan Bahadur Saiyed Muazzamuddin.
Hossain, Mr. Latafat.
Hossain, Mr. Mohamed.
Huq, Khan Bahadur Syed Muhammad Ghaziul.
Ibrahim, Khan Bahadur Maulvi Mohammad.
Karim, Khan Bahadur M. Abdul.
Khan, Khan Bahadur Muhammad Asaf.
Molla, Khan Sahib Subidali.
Momin, Begum Hamida.
Rahman, Khan Bahadur Ataur.
Rahman, Khan Bahadur Mukhlesur.
Rashid, Khan Bahadur Kazi Abdur.
Ray, Mr. Nagendra Narayan.
Roy, Rai Bahadur Radhica Bhusan.
Roy Chowdhury, Mr. Krishna Chandra, O.B.E.
Singh Roy, Mr. Saileswar.

NOES—12.

Chakravorti, Mr. Shrish Chandra.
Das, Mr. Lalit Chandra.
Datta, Mr. Bankim Chandra.
Dutta, Mr. Kamini Kumar.
Kabir, Mr. Humayun.
Maitra, Rai Bahadur Brojendra Mohan.
Mookerjee, Mr. Naresh Nath.
Mookerji, Dr. Radha Kumud.
Pal Choudhury, Mr. Ranajit.
Poddar, Mr. H. P.
Roy, Mr. Amulya Dhone.
Sanyal, Mr. Sachindra Narayan.

(The amendment was carried.)

Mr. PRESIDENT: Now, the question before the House is the resolution as amended:

That this House is of opinion that whole-hearted help and support should be given to the British Government in the prosecution of their war against the German menace; that this Council further approves of the policy of the Bengal Government towards the present International crisis in condemning Nazi aggression and declares its determination to resist this aggression and to protect the security and honour of the Province of Bengal and India with all available resources of the province. It further desires that it should forthwith be made absolutely clear that the constitution of India shall be examined *de novo* at the end of the war with a view to the immediate attainment of the objective of Dominion Status with effective protection of the due rights of the minorities and other sections in consultation and agreement with all the parties and communities concerned.

(The resolution was agreed to.)

The Bengal General Clauses (Amendment) Bill, 1939.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I beg to move that the Bengal General Clauses (Amendment) Bill, 1939, as passed by the Assembly be taken into consideration. The Bill contains purely formal amendments. It aims at bringing the Bengal Act of 1899 into accord with the provisions of the General Clauses Act, 1897. The Bill also establishes beyond doubt that the repeal of an amending Act does not affect the continuance of the amendments made by it. For these reasons, I commend the Bill to the House.

Mr. PRESIDENT: Motion moved: that the Bengal General Clauses (Amendment) Bill, 1939, as passed by the Assembly, be taken into consideration.

The question before the House is: that the Bengal General Clauses (Amendment) Bill, 1939, as passed by the Assembly be taken into consideration.

(The motion was agreed to.)

The Bill will be taken up, clause by clause, on the 19th December, 1939.

Supplementary Estimates of Expenditure for 1939-40.

Mr. PRESIDENT: The next item on the agenda is discussion of the Supplementary Estimates of Expenditure for 1939-40. Unfortunately, I find that the Hon'ble Finance Minister is absent. This is a matter which has been fixed by His Excellency the Governor for discussion to-day. Government will have to move His Excellency again to fix another date for it. In the absence of the Hon'ble Finance Minister, the subject cannot be discussed to-day.

I understand that the Party Leaders are agreeable to sit at 9 a.m. to-morrow. So, I adjourn the Council till 9 a.m. to-morrow.

Adjournment.

The Council then adjourned till 9 a.m. on Friday, the 15th of December, 1939.

Members absent.

The following members were absent from the meeting held on the 14th of December, 1939:—

(1) Rai Bahadur Manmatha Nath Bose.

(2) Mr. Hamidul Huq Chowdhury.

(3) Mr. Humayun Reza Chowdhury.

(4) Mr. Narendra Chandra Datta.

(5) Khan Bahadur Alhaj Khwaja Muhammad Esmail.

(6) Mr. Kanai Lal Goswami.

(7) Maulana Muhammad Akram Khan.

(8) Rai Bahadur Satis Chandra Mukherji.

B. G. Press—1939-40—11550A—750.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Friday, the 15th December, 1939, at 2-15 p.m. being the twelfth day of the Third Session, pursuant to section 62 (2) (a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

War measures taken by the Government of India.

74. Mr. LALIT CHANDRA DAS (on behalf of Mr. H. P. Poddar): (a) Will the Hon'ble Minister in charge of the Home Department be pleased to state if it is a fact that war measures have been taken by the Government of India in this province without consulting the Provincial Government?

(b) If so, will the Hon'ble Minister kindly say whether the Bengal Cabinet did register any protest?

(c) If not, why not?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): (a) This Government is taking such action as it thinks necessary with respect to passive defence measures. Active defence measures are the sole responsibility of the Government of India and this Government has no knowledge of what action has been taken.

(b) and (c) Do not arise.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to explain what he means by passive defence measures?

The Hon'ble Khwaja Sir NAZIMUDDIN: I mean, for example, that if there is an air raid and houses are set on fire, then putting out the fire—that is, all kinds of A.R.P. work, I should say.

Mr. LALIT CHANDRA DAS: Did the Government of India consult the Government of Bengal with regard to the adoption of any measures, whether passive or active?

The Hon'ble Khwaja Sir NAZIMUDDIN: As far as passive defence measures are concerned, they are really of two kinds—one is A.R.P. work and the other is protection of certain special places. A.R.P. work

has been initiated by us and we have kept them informed of what we are doing. As regards the other, it has been done by consultation.

Mr. LALIT CHANDRA DAS: All that we are anxious to know is whether in all these measures, the Government of Bengal is consulted by the Government of India?

The Hon'ble Khwaja Sir NAZIMUDDIN: There is no question of being consulted. The works are being done by us and, as I said, most of them are being initiated by the Government of Bengal.

The embankment of the river Mayurakshi.

75. Rai Bahadur SURENDRA NARAYAN SINHA: (*a*) Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state whether it is a fact that the embankment of the river Mayurakshi is a "protected" embankment in the district of Murshidabad?

(*b*) Is it a fact that the Government grants annually decent sums to the landlords concerned to repair the embankments?

(*c*) If the answer to the above be in the affirmative, will the Government be pleased to state the names of these zamindars and the amount of "*Pull-bandi*" allowances granted to each?

(*d*) Is it a fact that the lands and roads of many villages under the jurisdiction of the Barwan, Bharatpur and Kandi police-stations are annually damaged on account of breaches in the embankment of the said river?

(*e*) What is the nature of control exercised by the Government in order to see that the zemindars repair the embankment properly?

(*f*) Has any check or control ever been exercised?

(*g*) If so, how many times has it been exercised?

(*h*) Is it a fact that the Government is thinking of abandoning i old policy and of not pressing on the zemindars to repair the embanl ments any more?

MINISTER in charge of the COMMUNICATIONS and WORK DEPARTMENT (the Hon'ble Maharaja Srischandra Nandy, of Cossin bazar): (*a*) I do not know what the hon'ble member means by "pr tected" embankment. The embankments on the banks of the riv Mayurakshi in the Kandi subdivision are all private embankment maintained by zemindars or tenants.

(*b*) and (*c*) The sum of Rs. 3,172-12-8, as shown in the statemen laid on the table, is paid annually to the proprietors of only four estate

in two of the parganas of the district as contributions under section 44 of the Embankment Act towards the maintenance of the Mayurakshi and other embankments in the parganas.

(*d*) Damage occurs in years of abnormally high floods.

(*e*) to (*g*) When breaches in the embankments come to the notice of the local officers, the parties responsible are called upon to repair them. Payment of the contributions has been suspended on several occasions.

(*h*) No.

Statement referred to in the reply to clauses (b) and (c) of question No. 75.

Estate.	Name of proprietor.	Amount of contribution.		
		Rs.	a.	p.
Tauzi No. 253, Kismat Pargana Fatehsing.	The Nawab Bahadur of Murshidabad.	853	5	4
Tauzi No. 254, Kismat Pargana Fatehsing.	Babu Agendra Narayan Roy and others.	853	5	4
Tauzi No. 390, Kismat Pargana Rukunpur.	Maharaja Sir Prodyot Kumar Tagore.	733	1	0
Tauzi No. 2721, Kismat Pargana Rukunpur.	Maharaja Rao Sir Jogendra Narayan Roy of Lalgolla.	733	1	0
		3,172	12	8

Rai Bahadur SURENDRA NARAYAN SINHA: With reference to answers (*e*) to (*g*), will the Hon'ble Minister be pleased to state whether the action of suspending the contribution is sufficient to force the zemindars to repair embankments?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: I think, that is one of the methods, and if necessary, certainly the parties concerned may be asked by the Collector to take up the necessary work.

Khan Bahadur ATAUR RAHMAN: Are the Public Health Department and the Irrigation Department consulted when such embankments are erected by the zemindars?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: As I have already stated, the actions which the zemindars are called upon to take are under the Embankment Act and naturally the Irrigation Department have their say.

Khan Bahadur ATAUR RAHMAN: Is it not a fact that such embankments make the country water-logged and malarious?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: The view of the Department generally is that embankments are to be abandoned as far as possible; but in cases where there is possibility of large tracts of country being inundated, we have got to allow the embankment to remain in spite of the expert view that all the embankments should be demolished.

Khan Bahadur ATAUR RAHMAN: Will the Hon'ble Minister be pleased to state if Government would find out by an enquiry in this locality whether these embankments are to be maintained or abandoned?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Immediately after the last flood in that area and after my visit to that locality, I have asked the Department to make a thorough enquiry into the drainage system of that portion of the district.

Control over the embankment of the river Mayurakshi.

76. Mr. RANAJIT PAL CHOUDHURY: (*a*) Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state whether it is a fact that the embankment of the river Mayurakshi is a "protected" embankment in the district of Murshidabad.?

(*b*) Is it a fact that the Government grants annually decent sums to the landlords concerned to repair the embankments?

(*c*) If the answer to the above be in the affirmative, will the Hon'ble Minister be pleased to state the names of these zemindars and the amount of "*Pull-bandi*" allowances granted to each?

(*d*) Is it a fact that the lands and roads of many villages under the police-stations of Barwan, Bharatpur and Kandi are annually damaged on account of breaches in the embankment of the said river?

(*e*) What is the nature of control exercised by the Government in order to see that the zemindars repair the embankment properly?

(*f*) Has any check or control ever been exercised?

(*g*) If so, how many times has it been exercised?

(*h*) Is it a fact that the Government is thinking of abandoning its old policy and of not pressing the zemindars to repair the embankments any more?

(*i*) Is the Government aware that many villages under the three thanas of Barwan, Bharatpur and Kandi will be entirely depopulated and the arable lands will be filled up with sand if this policy is pursued?

(*j*) Does the Government propose to issue a communique on the matter to allay the feelings of alarm caused by the report of the abandonment of its old embankment policy?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: (*a*) to (*h*) The hon'ble member is referred to the reply which I have just given to parts (*a*) to (*h*) of Rai Bahadur Surendra Narayan Sinha's question No. 75.

(*i*) and (*j*) Do not arise.

Jute Fatka Market.

77. Mr. K. C. ROY CHOWDHURY: (*a*) Will the Hon'ble Minister in charge of the Commerce and Labour Department be pleased to state whether it is a fact that the Hon'ble Commerce Minister was obliged to fix the minimum price in jute *fatka* market in August last to check gambling transactions adversely affecting the interest of jute growers?

(*b*) Is it a fact that the President of Indian Jute Mills Association publicly declared in a meeting of the Committee of the Association in September last that jute growers have been made pawns in the speculative market?

(*c*) Is he aware of the fact that the *fatkawallas* caused violent fluctuations in future price of jute, namely, rise and fall of Rs. 7 per bale in a single day?

(*d*) Is he aware of the fact that a vast majority of Barabazar residents unconnected with the jute business are daily operating in the *fatka* market since the outbreak of the war thereby causing inflation in the price of jute and hessian by 100 per cent., although neither jute nor hessian could be shipped?

(*e*) Is he aware of the fact that thousands of Bengali service-holders have been drawn into *fatka* operations since the outbreak of the war and lost very heavily?

(*f*) Is he aware of the fact that suicide has been committed by persons who failed to pay the difference?

(*g*) Is he aware of the fact that hessian speculators financed jute mill strikes and employed persons to foment strikes?

(*h*) Does the Hon'ble Minister contemplate taking action against unrestricted wagering operations in the jute and hessian *fatka* market and following the recommendations of Professor J. C. Sinha, member of

the Bengal Jute Enquiry Committee, namely, "that the East India Jute Association should be asked to reconstitute itself on sound commercial lines and if this is not done or cannot be done, a new Association should be set up on the lines of the East India Cotton Association of Bombay representing all materials in Jute"?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Hon'ble Mr. H. S. Suhrawardy): (*a*) The minimum rate for contracts relating to raw jute futures was fixed it being considered by Government to be necessary in the public interest, as stated in the preamble to the Ordnance of August, 1939.

(*b*) Government has no official information.

(*c*) Yes.

(*d*) to (*f*) Government has no information on the subject.

(*g*) These allegations have been made frequently but they have never been satisfactorily proved.

(*h*) Government proposes to enquire into the working of these markets, and suggest measures for their reconstitution to enable them to function as proper futures or hedging markets.

Mr. K. C. ROY CHOWDHURY: Arising out of answer (*a*), will the Hon'ble Minister be pleased to state if he is aware of the fact that the Hon'ble Minister in charge of Labour and Commerce Department has admitted in speeches and statements before labour meetings that these *fatka* operations were more or less in the nature of gambling transactions?

The Hon'ble Khwaja Sir NAZIMUDDIN: Any speculation is a gamble.

Mr. K. C. ROY CHOWDHURY: Arising out of answer (*h*), will the Hon'ble Minister be pleased to state if he has read the report of the Bengal Jute Enquiry Report and the notes submitted by several members including Professor Sinha to the effect that these *fatka* operations under the East India Jute Association were of a speculative nature and must be checked.

The Hon'ble Khwaja Sir NAZIMUDDIN: I have not read the report myself but I believe that is the gist of the report.

Mr. K. C. ROY CHOWDHURY: Has the Hon'ble Minister read the report circulated by the Associated Press of India and published in the local newspapers day before yesterday to the effect that the Bombay Government has issued an Ordinance suppressing the Futures Cotton Market there?

The Hon'ble Khwaja Sir NAZIMUDDIN: No, Sir, I have not seen that.

Mr. K. C. ROY CHOWDHURY: Is the Hon'ble Minister aware of the fact that the Congress Ministry before they resigned issued a similar Ordinance stopping all speculations and future transactions in cotton?

The Hon'ble Khwaja Sir NAZIMUDDIN: I do not think, that is correct.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister be pleased to state if it is in the nature of a gamble, whether it should not be stopped in the inferest of the people at large?

The Hon'ble Khwaja Sir NAZIMUDDIN: There are a hundred and one things which are in the nature of a gamble, but we do not stop them.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Will the Hon'ble Minister be pleased to state if it is a fact that the Hon'ble Sir Ramaswami Mudaliar, Commerce Member, Government of India, who came here recently, consulted the Government of Bengal regarding the price to be fixed for jute?

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I submit that this does not arise out of this question.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Has the Government considered about the fixing of the price of jute?

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I again submit that the question of fixation of the price of jute does not arise out of this question.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister be pleased to state why some gamblings are stopped and others are not? What are the distinguishing features between the two?

The Hon'ble Khwaja Sir NAZIMUDDIN: Action is taken in any case which comes under the Gambling Act and in which there is sufficient evidence.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Is it a fact that *fatka* business is concerned only with jute matters and deals with the price of jute?

The Hon'ble Khwaja Sir NAZIMUDDIN: It does not deal with the price of jute. It deals with the price of *pucca* bales. It is a very complicated matter.

Khan Bahadur ATAUR RAHMAN: It deals with silver, jute, linseed and other materials.

The Hon'ble Khwaja Sir NAZIMUDDIN: Almost every country has got a Futures Market which deals in raw commodities.

Khan Bahadur ATAUR RAHMAN: Will the Hon'ble Minister be pleased to state if they are going to fix a maximum or minimum price for jute?

The Hon'ble Khwaja Sir NAZIMUDDIN: Nothing doing, Sir! (Laughter.)

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state when Government proposes to enquire into the working of these markets and suggest measures to enable these institutions to function as *bona fide* lawful associations?

The Hon'ble Khwaja Sir NAZIMUDDIN: Government have been enquiring all the time trying to get the right persons with proper experience who can thoroughly go into this question and suggest a really proper Futures Market in jute. The difficulty is that we are not getting the right persons.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state when Government intend to finish that enquiry? We want an idea of the time within which definite action may be taken in regard to this market and legislation passed, if necessary.

The Hon'ble Khwaja Sir NAZIMUDDIN: It is very easy to suggest a legislation, but you must have an alternative to replace the existing one. The difficulty is that it is a highly technical thing and not easy to suggest what should be the alternative. We want somebody who has got a thorough knowledge of the working of the Futures Market and who can advise us as to how to replace it by removing all the existing evils from it.

Mr. LALIT CHANDRA DAS: Have Government got the necessary experts to do the work of enquiry?

The Hon'ble Khwaja Sir NAZIMUDDIN: No; that is the whole trouble.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: In reply to my supplementary question, the Hon'ble Minister said that *fatka* business deals with bales. Sir, am I to understand that it deals with bales of jute only and not of other materials?

The Hon'ble Khwaja Sir NAZIMUDDIN: I think the honourable member is absolutely correct.

Mr. NARESH NATH MOOKERJEE: Is the Hon'ble Minister aware that Hon'ble Ministers themselves gamble in the *fatka* market and as a result——

Mr. PRESIDENT: Order, order. That is not a supplementary question.

Mr. LALIT CHANDRA DAS: What are the difficulties standing in the way of securing experts to go into the whole matter and suggest proper remedies?

The Hon'ble Khwaja Sir NAZIMUDDIN: If the hon'ble member will suggest certain names, Government will be very much obliged.

Mr. LALIT CHANDRA DAS: Are we to understand that Calcutta is lacking in people with expert knowledge who might suggest remedial measures?

The Hon'ble Khwaja Sir NAZIMUDDIN: If the hon'ble member will only try to go into the matter, he will find that it is not so easy as he thinks.

Mr. LALIT CHANDRA DAS: How long have the Government been trying to get hold of such experts?

The Hon'ble Khwaja Sir NAZIMUDDIN: For the last two years.

Rai Sahib INDU BHUSAN SARKER: Will the Hon'ble Minister be pleased to state whether he is considering the desirability of fixing the maximum or minimum price of jute and hessian?

The Hon'ble Khwaja Sir NAZIMUDDIN: I submit, Sir, that this question does not arise out of the question.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Is it a fact that the *Fatka* business varies with the price of jute?

The Hon'ble Khwaja Sir NAZIMUDDIN: I do not understand what the hon'ble member means by *Fatka* business. There is no such thing as *Fatka* business.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: The question relates to *Fatka* jute market. Does the market vary?

The Hon'ble Khwaja Sir NAZIMUDDIN: The market cannot vary.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: The prices in the *Fatka* jute market vary.

The Hon'ble Khwaja Sir NAZIMUDDIN: Will the hon'ble member kindly repeat the question?

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: My question is that in the jute *Fatka* market, the price of jute varies with the actual price of jute?

The Hon'ble Khwaja Sir NAZIMUDDIN: I simply do not follow the hon'ble member as to what he means.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Is it a fact that the *Fatka* market deals only with jute business?

The Hon'ble Khwaja Sir NAZIMUDDIN: There is a *Fatka* jute market and there are *Fatka* markets for other things.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: The question relates only to the jute *Fatka* market.

(No answer.)

Mr. PRESIDENT: Order, order. The House will now resume discussion on the Bengal Money-lenders Bill, 1939.

The Bengal Money-lenders Bill, 1939.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Sir, I beg to move that in sub-clause (4) of clause 2 of the Bill, in the explanation for the word "solely" in line 4, the word "mainly", be substituted.

My proposal is very simple and most reasonable and it does not require much explanation or comment. As we discussed the very same subject on Monday last, I do not think I would be required to put in more explanation on this matter. However to be more explicit, I would say that the Bill proposes that a "commercial loan" should be excluded from its operation; that is to say, "commercial loan" should be guided by the present law It would not be affected by the Bill which is under discussion. Only non-commercial loan will be affected by the Bill as it is proposed. So, it is advantageous to the lender to see that the loan that he proposes to advance comes under the category of "commercial loan". He will take every precaution to see that the loan that he advances is a commercial loan in the strict sense of the word. He will ask the borrower to execute a deed and take every legal precaution so that his money may be safe and the loan may come under the category of "commercial loan". It is also advantageous to the borrower to see that the loan is a non-commercial one. If he can prove that the loan is a non-commercial loan, then he will get certain advantages. According to this clause, which has been proposed, if a loan is taken solely for a commercial purpose, then it will be a commercial loan and not otherwise. My idea is that for the word "solely", the word "mainly" should be substituted. The reason is very clear because if the word "solely" is retained, the burden of proof would be on the lender, that is to say, he has to prove that the loan that he has advanced for a commercial purpose is applied only for that commercial purpose. Only then he will get a decree; otherwise it would be difficult to get a decree if the loan, though taken for a commercial purpose, is applied to some other purpose. Even if a portion of the loan taken for a commercial purpose is applied to a non-commercial purpose, it would be very difficult for the lender to get his money back. So, my proposal is that a loan, if it is applied *mainly* for a commercial purpose, should be treated as a commercial loan. If the word "solely" is retained, the result would be that it would encourage cheating and also litigation. It would not be possible for a lender to see how the money has been applied. Suppose, a man takes a loan of Rs. 100 for a commercial purpose. He applies, say, Rs. 90 for that purpose and Rs. 10 for some other purpose. If the lender asks for his money back, then, he will not get it because the loan will not be a commercial loan but a portion of the money has been applied to a non-commercial purpose. By this way, taking advantage of the wording of this clause, the borrower will try to cheat the lender.

Therefore, my suggestion is that if a loan is taken mainly for a commercial purpose, it should come under the category of a commercial loan. If the word "solely" is retained, there is another disadvantage. Not only would there be several cases of litigation in the country but also there would be several rulings on the interpretation of the word "solely", and I can say that it would be very difficult even for a lawyer to define the word "solely". That would lead to ruinous litigation both for the borrower and the lender. The law of the country should be such that there would be no ambiguity. It should be as clear as possible and should not leave any scope for litigation. If we keep the word "solely", then there would surely be litigation.

The other day, the Hon'ble Nawab Sahib said in reply to an amendment of this nature that as the Bill was the outcome of a compromise between the lender and the borrower, he did not wish that there should be any amendment moved. We do not know whether there has been a compromise between the lender and the borrower. We do not know who were the borrowers' representatives and who were the lenders' representatives. Taking for the sake of argument that there has been a compromise, I do not think he is justified in asking the Council not to send in any amendment or to discuss it or to improve the Bill in any sense even if it be found that there is scope for improvement. If that be so, it is useless for this Council to discuss the Bill at all. We thought on that day that the suggestion made by my friend Rai Sahib Indu Bhushan Sarkar was an improvement and we think that this also is an improvement. I do not think that the Hon'ble Nawab Sahib's argument can be accepted by the Council.

With these words, I commend my motion to the acceptance of the House.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*4*) of clause 2 of the Bill in the explanation for the word "solely" in line 4, the word "mainly", be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose the motion of my friend, the Raja Bahadur. He seems to believe that non-commercial loan is a wrong thing. I do not consider it to be so. Loans both for commercial purposes as well as for non-commercial purposes are sound in principle. If a loan is advanced for a non-commercial purpose and if my honourable friend is under the impression that the loan will not carry any interest whatsoever or that it will not allow the owner of the money to earn anything for investment, I believe that it is a misconception of things. On the contrary, if a man is honest, he will prefer to advance the money for non-commercial purposes. Usury is a thing, Sir, which is not encouraged by any system of law. If we have provided against usury, we have done

no wrong to the country, or to any principle of law that obtains in the world. So, the accusation of my honourable friend that non-commercial loans will not at all be given by anybody is wrong. On the other hand, I am of opinion that all those honest people who have got some money will advance money for helping their neighbours at a reasonable rate of interest, at an interest which we have provided for in section 30 of this Bill. So, there is absolutely no meaning in the apprehension of my honourable friend that a "commercial loan" should include that kind of loan which is partly utilized for commercial purposes and partly for other purposes. I cannot accept the idea that a commercial loan should not be utilized for the purpose for which it is taken. If it is utilized for a purpose other than what my honourable friend considers proper, I think that the country will not agree to that. Sir, I had occasion to sense the feeling in the country on this subject. The people are, I know, of opinion that usury must be stopped, and we have aimed at that only and nothing else. We have allowed interest at a fair and reasonable rate, and we also believe that a man holding money, not for himself alone but for his neighbours and friends also should be allowed to advance money to them at a fair and reasonable rate, so that there may always be peace and goodwill prevailing in the country. If the person who holds money is under the impression that that money is meant for taking away others' properties and not for earning leigtimate interest, we cannot agree to that. I believe that when exclusion has been made for allowing all commercial people to run their commerce, they should be strictly honest in their dealings and we should see that the loan is taken for commercial purposes only and not for any other private purpose. I therefore, oppose the motion.

Rai Sahib INDU BHUSAN SARKAR: Sir, I rise to support the motion of Raja Bahadur of Nashipur. My object in supporting this amendment is that it tries to do away with the rigidity and harshness of some of the provisions of the Bill, and unless this amendment is accepted and the word "mainly" is used instead of the word "solely", this Bill, when passed into law, will encounter many practical difficulties. It is not possible for a lender to keep a constant watch over all the actions of the borrower. Very often, the borrower spends the amount borrowed for more than one purpose. It might very well be that the borrower spends a portion, say 70 per cent. or 80 per cent. of the loan for a commercial purpose and the rest for some private purpose and if in such a case the law enjoins that the entire amount should be spent for commercial purposes, it would surely result in restricting credit available even for genuine commercial purposes. So, in my opinion, whenever the bulk of the loan is used for commercial purposes, the loan should be recognised as a commercial loan for the purposes of this Bill.

Sir, the difficulty is that if only a small portion of a loan be used for other than a commercial purpose, the entire tranaction will not be recognised as a loan taken for commercial purposes. But how could the lender understand beforehand whether the borrower will use it for his private purposes or solely for commercial purposes. That is the difficulty, Sir. The whole responsibility has been placed on the shoulders of the lender, but in that case it will be very difficult for him to lend any money on this account and the result will be that the whole object of this Bill will be frustrated. For small money-lenders who lend money—say Rs. 50 or Rs. 100—it is not possible to keep accounts, as in the case of widows and small money-lenders, who do not usually keep accounts. It is only from their bonds that they adjust their accounts. They do not keep any accounts required for regular business. So, this sort of money-lending will be stopped which is absolutely necessary in every day life. Even if they invest money in the villages, the villagers who deal in rice or other necessities of life will be deprived of the facilities of borrowing small sums of Rs. 50 or so, and if this sort of loan is stopped, their business will collapse and the whole purpose of this Bill will be defeated.

For these reasons, Sir, I support the amendment moved by the Raja Bahadur of Nashipur.

Khan Bahadur M. SHAMSUZZOHA: Sir, I beg to submit in this connection that in the proposed Bill there has been an attempt to make the two transactions, namely, commercial and non-commercial transactions, as far as practicable completely separate. If that intention is not kept in view, then there may be difficulties as regards legal interpretation. So, with that object in view, I think, it has been attempted in this explanation to restrict the scope of "commercial loans" only to those transactions in which the money will be solely used for any of the purposes previously mentioned. The arguments that have been advanced by the Raja Bahadur and other friends seem not to attach much importance to this distinction which the framers of this Bill have kept in view. Sir, my friend on the other side contended that by introducing the word "mainly", some good purpose will be served. I think, Sir, it will lead to litigation and cheating. So, Sir, in order that cheating and litigaton might be checked, it is better that the word "solely" should be retained instead of introducing the word "mainly".

Rai Sahib JATINDRA MOHAN SEN: Sir, so far as this question is concerned, it has been before the House previously also. Now one thing that should be made clear is this: that a commercial loan is intended to be excluded from the stringent provisions of the Bill, and for that purpose, Sir, a commercial loan is going to be defined, and it

is necessary, therefore, in my opinion that a stringent definition should be made and there should be no loophole for the escape of other loans from the operation of the stringent provisions included in the Bill.

I am sorry, Sir, that I have got to oppose the amendment of my honourable friend the Raja Bahadur. My view is that a commercial loan should be a commercial loan for all purposes and that there should be no loophole given in order that some part of the money which is intended to be raised or borrowed for commercial purposes should be diverted to other purposes.

Sir, objections have been raised that it would be very difficult for a lender if he is to see that every pie of the money is going to be spent for commercial purposes. But I think that the object of this Bill is that loans should be given only to *bona fide* commercial people. If a person has got to deal with different matters, e.g., if a man has got certain business, but after taking money for his commercial business if he diverts a portion of it to his daughter's marriage or to his son's *Annaprasans* I should think that the law should see that the money is not diverted to those purposes. Sir, the lender must see that the money is lent to a *bona fide* commercial person and that he has regular books of account. In that case, there will be no difficulty in seeing that the money is applied to regular commercial purposes. There is no risk then about the money being advanced to such people. If he is an honest commercial man, certainly the money should be available to him. But the whole object of the Bill would be frustrated in my opinion, if a loophole is given and if he is permitted to divert any portion of the money to other purposes. In that view, I am sorry, I have to oppose the amendment of my friend the Raja Bahadur.

Mr. MESHAHUDDIN AHMED: Sir, the question may now be put.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*4*) of clause 2 of the Bill, in the explanation for the word "solely" in line 4, the word "mainly", be substituted.

(The amendment was negatived.)

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I beg to move that in sub-clause (*4*) of clause 2 of the Bill in the Explanation for the word "solely" in line 4, the word "actually", be substituted.

Sir, the Explanation lays down that if the loan be in substance a loan for the purposes mentioned in the definition of the term "commercial loan", it will be deemed to be a commercial loan; but then goes the word "solely" which in my opinion, will take away a large portion of the discretion left to the Court to treat whether a loan is

really a "commercial loan" or not. "Solely" is a word which may mean this that even if a very small fraction of the borrowed amount is spent on some subsidiary purpose, the amount borrowed will not be treated as a "commercial loan". Sir, if we look into clause (5) of section 39, it will be found that the burden of proving that a loan is a "commercial loan" has been placed on the money-lender who advanced the loan and if on the top of that the word "solely" is kept, then it will be difficult for the lender to prove that the money has been actually spent for commercial purpose. As has been said by one of the speakers on a similar amendment, there should be no loophole. The word "actually" would be more consistent with the intention of the Bill than "solely", and with that object in view I move that the word "solely" in line 4 in the Explanation, be substituted by the word "actually".

Mr. PRESIDENT: Amendment moved: that in sub-clause (4) of clause 2 of the Bill in the Explanation for the word "solely" in line 4, the word "actually", be substituted.

Mr. E. C. ORMOND: Mr. President, Sir, I have only one brief observation to make on the remarks that have so far fallen from hon'ble members on the debate in regard to this amendment. It occurs to me that there is some confusion as to the time at which the test in regard to the nature of the loan is to be applied. Certain hon'ble members have spoken as if the whole course in dealing with the money after it has been lent has to be looked at. That, Sir, I take it, is not the intention of the framers of the Bill or of the wording of the clause. The lender has to satisfy himself under sub-clause (5) of section 39 of the Bill. That clause is as follows:—

> "Notwithstanding anything contained in any law for the time being in force, in any suit, or proceeding, the burden of proving that a loan is a commercial loan shall be on the money-lender who advanced the loan".

Therefore, as a result of that clause it is clear, that I concede the point that the burden of proving is on the lender that at the time the loan was made it was a commercial loan. It would be an intolerable burden if it is suggested that the money-lender has to look at the private accounts as well as the business accounts of the borrower to whom he lends money for the next 20, 25 or 50 years after he has lent it to see how that money has been spent. That, I submit, is not the object of the Bill or the wording of it. Therefore, a good many of the remarks it occurs to me which have been made in regard to this motion appear to be on a false basis. Hon'ble members have spoken as to the

diversion of the money after it has been borrowed, but that is a question which, I submit, does not arise. If that question does not arise, there is little difference, little benefit, in substituting the words "actually", "mainly" or anything else for the word "solely". The business of the lender is to see at the time when he lends the money that it is intended *bona fide* for a particular transaction. Therefore, Sir, I oppose the amendment.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose the amendment moved by my friend, Rai Surendra Narayan Sinha Bahadur.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*4*) of clause 2 of the Bill in the explanation for the word "solely" in line 4, the word "actually", be substituted.

(The amendment was negatived.)

Mr. PRESIDENT: The next motion deals with clause 2(*5*). From what I have seen, the word "company" has not been used in any of the clauses of this Bill except incidentally where it has been used as insurance company, life insurance company, which are all clearly defined in those particular Acts. I think in the Bill, as it was originally introduced, in clause 24, the word "company" was used. If the Hon'ble Minister finds after scrutiny that the word "company" has not been used, then this clause might be omitted. So, I postpone the consideration of all the amendments based on this word in sub-clause 2 (*5*), for the present.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, with regard to the amendment standing in my name, I submit that I am not going to move it.

Mr. PRESIDENT: The real point to be considered here is whether the term "company" has been at all used.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move that in sub-clause (*9*) of clause 2 of the Bill, for the words "any sum" appearing in line 1, the words "anything whether in money or in kind", be substituted.

The purpose of my amendment is to supply a great gap—and I suppose, an unintentional gap,—in drafting. The Bill contemplates loans in money as well as loans in kind. This phraseology will make it more suitable for the purposes of the Bill. It is a purely formal amendment and I hope that it will be accepted.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*9*) of clause 2 of the Bill, for the words "any sum" appearing in line 1, the words "anything whether in money or in kind", be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, there is some difficulty in accepting my friend's amendment now in view of the fact that we have not thought of considering any loan other than a money loan. With regard to a loan in kind, in section 32 of the Bill, we have said that even if anything is given in kind, that will also be valued at a price prevailing at the time when that thing is given. With that section standing in the Bill, I do not understand how I can either accept the amendment or oppose it without further scrutiny. So, I suggest that its consideration may be postponed.

Mr. PRESIDENT: The Hon'ble Minister suggests that the consideration of this particular amendment may be postponed. I also agree that the Bill being a Money-lenders Bill, the insertion of the provision of payment in kind may bring in complications. Of course, the Hon'ble Minister will consider the point and let the House know, later on.

Mr. NUR AHMED: Sir, I beg to move that in sub-clause (*9*) of clause 2 of the Bill, after the words "a loan" in line 4, the words "whether the same is charged or sought to be recovered specially by way of interest or otherwise", be inserted.

I think this simple amendment is necessary to clear what is intended. I do not wish to take up much time of the House. I only appeal to the Hon'ble Minister to accept this amendment.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*9*) of clause 2 of the Bill, after the words "a loan" in line 4, the words "whether the same is charged or sought to be recovered specially by way of interest or otherwise", be inserted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept the amendment.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*9*) of clause 2 of the Bill, after the words "a loan" in line 4, the words "whether the same is charged or sought to be recovered specially by way of interest or otherwise", be inserted.

(The motion was agreed to.)

Mr. RANAJIT PAL CHOUDHURY: Sir, I beg to move that for sub-clause (*10*) of clause 2 of the Bill, the following be substituted, namely:—

"(*10*) "lender" means a person who advances a loan and shall include a Hindu undivided family and the legal representatives and successors-in-interest, whether by inheritance or assignment or otherwise, of a person who advances a loan and includes a money-lender".

Sir, my reason for my moving this amendment is that in very many cases after the death of a man, his heirs are sometimes put to difficulties in getting their house in order. When the father dies, the sons have to go through the *Sradh* ceremony and then there are many cases when these deeds or documents might get barred by limitation. Besides that, it would hasten the matter and that is why I have suggested this amendment. Besides, all the other provinces where legislation on money-lending has been enacted, this clause has been inserted and the definition of the term "lender" has been more or less of a similar type. In Madras, United Provinces, Central Provinces, Bihar and Orissa, where legislations on money-lending have been passed, this definition has been adopted. I hope, Sir, that in the interest of the borrowers, this definition will be accepted by the House.

Mr. PRESIDENT: Amendment moved: that for sub-clause (*10*) of clause 2 of the Bill, the following be substituted, namely:—(*10*) 'Lender' means a person who advances a loan and shall include a Hindu undivided family and the legal representatives and successors-in-interest, whether by inheritance or assignment or otherwise, of a person who advances a loan and includes a money-lender."

Mr. KAMINI KUMAR DUTTA: Sir amendments Nos. 46-48 are exactly the same. So, they may also be considered along with it.

Mr. PRESIDENT: Yes, you can speak on this motion.

Mr. KAMINI KUMAR DUTTA: Sir, the object of this amendment is only to make the definition more clear. Personally speaking, I think of course, that "lender" also means successors-in-interest. In the ordinary sense, it ought to mean that. But to remove all possible doubts, we have tried to make it more clear, so that it will read thus: —"lender" means a person who advances a loan and shall include a Hindu undivided family and the legal representatives and successors-in-interest, whether by inheritance or assignment or otherwise, of a person who advances a loan." This is only an amplification of the

definition of the term "lender" in order to remove all possible complications which might arise in the course of litigation over this piece of legislation. In the case of a Hindu undivided family which is not isolated, if the money is advanced to a person from the funds of the Hindu undivided family, the point may arise whether he should be entitled to the advantages provided for in this Bill. Our purpose is to ensure that such persons should also come under the category of the term "lender." In the case of the Hindu undivided family, they should also come under the provisions of this Bill and if a man dies or if a man assigns his interest, both the successors-in-interest or the assignee, whether testate or intestate, should come under the provisions of this law. The object of this amendment is not really to correct, but I think, to extend the provisions of the law to all classes of money-lenders and their successors-in-interest.

Dr. RADHA KUMUD MOOKERJI: Sir, I rise to support the amendment on grounds which, I hope, will commend themselves to Government. One of the first principles of jurisprudence is that ambiguous and equivocal statements should not find any place in any measure of legislation. Now, this is a measure of legislation which concerns the vast masses of the people who are not at all conversant with legal subtleties and terminologies. It is, therefore, very very necessary that the framers of the law must clearly declare what their intentions are in regard to every detail of the law.

Now, here, for instance, the term "lender" is supposed to mean a person, but there is a good deal of ambiguity about the significance of this person in the legal sense of the term, as to whether a person is merely an individual in flesh and blood or this supposed person might also include what may be called the legal fiction of a sort of a corporation or family which is an undivided family. Therefore, Sir, I do not think that the amendment can be construed as importing any vital change into the proposals of the Government. It only helps Government to make clear their real intentions in bringing forward this piece of legislation. I say that the very purpose of the Government will be better facilitated if they really accept it as a more complete definition of what is really very very obscure; for, on account of this obscurity a situation may crop up which may lead to litigation and to other difficulties. I, therefore, make an appeal to Government that they should show their good sense in accepting this amendment which will only remove the obscurity of the drafting in the proposed Bill.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Sir, the main amendment stands in my name, but here I have to support my honourable friend, Mr. Ranajit Pal Choudhury. As stated by the previous speakers, his object is to make the definition more

clear. I am of opinion that this amendment makes the definition fuller and wider. This definition, I might inform the House, has been accepted by four or five provinces while passing or considering a legislation of a similar nature. Other provinces, such as the United Provinces, Bihar and Orissa have also accepted such a definition in their legislation. Such a wide definition will spare trouble and litigation to those who will succeed to the interest of the original money-lenders by the operation of law or otherwise. Under the present restricted definition, the necessity of being provided with a license for taking steps to realise money will be a hindrance to the money-lenders. By way of illustration, I may say that if a person advances money and dies leaving behind one son, then the son cannot sue for the money unless he takes a certificate. The formality of securing such a certificate will necessarily involve some time; meanwhile, some loans might be time-barred. So, in order to avoid the ambiguity of the language, I think the House will accept the proposal.

Rai Sahib JATINDRA MOHAN SEN: Sir, the amendment to my mind does not deal only with one subject but with two subjects. As it stands, it says that the term "lender" means a person who advances a loan and shall include a Hindu undivided family; and then it comes to another subject and says that the legal representatives and successors-in-interest, whether by inheritance or assignment or otherwise, of a person who advances a loan are also included as money-lenders.

Therefore, Sir, the definition deals with two things, namely, an undivided Hindu family and the legal representatives of a person who advances a loan. The second part, I think, is intended to evade the Succession Act—Act VII as we call it, and the first part, of course, is intended to include an undivided Hindu family.

Now, if the intention is to evade Act VII, then it is for the Government to decide whether the provisions of Act VII can be evaded. (Mr. KAMINI KUMAR DUTTA: Act VII cannot be evaded.) In order to obtain a succession certificate, some duties have got to be paid. Now, if this definition is accepted, then no duty will have to be paid by the legal representatives of a person. (Mr. RANAJIT PAL CHOWDHURY: That is a different subject altogether. Succession certificate has got nothing to do with it.) The definition is intended to include the legal representatives and the successors-in-interest of a person who advances a loan. So, this aspect of the matter has also to be considered in deciding whether the entire amendment should be accepted or not. My submission is that the first part of the amendment which deals with Hindu undivided family should be adopted, because in that case the position of an undivided Hindu family will be made clear. But so far as the second part is concerned, I do not think that it should be included in this definition, and I oppose that part of the amendment.

Mr. E. C. ORMOND: Mr. President, Sir, as the definition stands in its unamended form, it reads as follows:—"lender" means a person who advances a loan and includes a money-lender. As it is proposed to be amended, the term "lender" is directly to be made to include a Hindu joint family.

Now, Sir, the definition, as it stands, refers to a person. It says that "lender" means a person who advances a loan and includes a money-lender. The word "person" is defined in the Bengal General Clauses Act, section 3, sub-section 32 which reads as follows:—"Person shall include any company or association or body of individuals whether incorporated or not". Now, it would appear that, on the basis of those words in the ordinary English meaning, they would include an ordinary Hindu joint family. I agree that it may be that there has been some doubt or there might be some doubt, if those words have not been finally determined, whether they will include a Hindu joint family. But the place to make that amendment, if it is desired that a Hindu joint family should be in the same position as a "person" for all propositions of law, is, I submit on the Bengal General Clauses Act and not a particular Act for a particular purpose such as the one now under discussion. The Bengal General Clauses Act is coming up for consideration in a very short time (Mr. KAMINI KUMAR DUTTA: Not the whole of the Act.) and this matter, I should submit, is more properly dealt with there. If the principle which I am now suggesting is a right one and is not followed, then we get into the most impossible situation in regard to legislation. For every particular Act which is passed for a particular purpose has to give definitions of other common words used in the Act. This House will then be saddled with the impossible task of framing a legal dictionary for every particular Act that it passes and on general principles. Sir, I would appeal to the mover of this motion—whether he can persuade the House that his proposition is correct or not—irrespective of that, I would appeal to him and the supporters of the motion, even if they wish a Hindu joint family to be included in the definition of a "person", that this is not the proper moment nor the proper place at which that ought to be pressed.

Then, Sir, there is the other point made in the definition, as was pointed out by the honourable speaker who spoke last, that a "lender" has to be defined in this particular Bill as including certain legal representatives and successors so as to deal with the cases that might arise when the original lender dies. The remarks I have already made, I submit, cover this ground also. As was pointed out by the honourable speaker who spoke last, that is also a matter which is concerned with the general policy or general administration of the law in regard to succession on death of an individual and the same rules should apply to a money-lending loan as to any other loan. And, of course, it is common

knowledge that when a man dies, his contracts and his debts and his loans, are not extinguished. Therefore, Sir, that is again, I should respectfully submit for the consideration of this House, not a matter to be dealt with in connection with this particular Bill which is merely a Bill for a particular purpose.

Therefore, I oppose the amendment.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I do not wish to improve upon Mr. Ormond's lucid and clear analysis of the position. It is an effective reply to the first portion of the amendment. With regard to the second portion of the amendment, I wish to submit a word or two. The amendment seeks to specifically include transferees, legal representatives and successors-in-interest as included in the definition of the term "lender". I submit this attempt ignores the existence of many Acts and laws which sufficiently provide for them. In fact, the Law of Inheritance which is the law of the land relating to each community is still binding on our Courts. That is guaranteed by British Statutes as well as Indian Acts. Whatever advantages or obligations the lender possesses, will also descend to his heirs, transferees and the legal representatives, because those persons stand in the shoes of the lender, their predecessor-in-interest. This being the state of the law, it is not at all necessary to trouble about the position of heirs and legal representatives. Their interests are already clearly safeguarded. To take some examples, there is the Transfer of Property Act. In that Act, the terms "vendor" and "purchaser", "lessor" and "lessee", "mortgagor" and "mortgagee" have been mentioned. Elaborate rights and obligations touching them have been provided for. But their transferees, heirs and legal representatives have not been mentioned. That is not necessary. The Bengal Tenancy Act speaks of "landlord" and "tenant". It never bothers about their transferees, heirs and legal representatives. They are clearly implied in the Act. Then there is the Contract Act which will also apply to the Money-lenders Act. The Contract Act deals with the rights and obligations of the contracting parties. It does not specifically deal with their heirs and legal representatives. I submit, they are sufficiently provided for in the general law of the land. The amendment is, therefore, redundant.

Mr. NARESH NATH MOOKERJEE: May I make a submission with regard to the remarks that have fallen from my hon'ble friend Mr. Ormond? Sir, he has stated that this is not the proper time nor the place to discuss this amendment and that we will get an opportunity of discussing this matter when the General Clauses Amendment Bill comes up. With all respect, may I point out that the General Clauses Amendment Bill does not propose to deal with this matter at

all. I think that it does not include within its scope the question involved here, and I think it will have to be dealt with by another amending Bill if we now decide not to discuss this matter. As a matter of fact, as pointed out by Dr. Radha Kumud Mookerji, I think we should try in all cases, wherever possible, to make the law very clear and unambiguous. Besides, Sir, when our sister provinces, in almost all cases of similar legislation, have clearly defined this term, I do not see why my friends opposite should have any objection really to support this amendment suggested by the Congress party. I feel, Sir, as a matter of fact that this amendment is likely to clear the position very much, because it will do away with all complications and ambiguity in the Bill. I think that it will also prevent a lot of litigation and trouble to the Hindu undivided family. May I, with these remarks, request my friends opposite not to reject this amendment? As it happens, Sir, several amendments have already been accepted, and the Bill will, in any case, have to go to the other place. Therefore, a small amendment of this nature will not really delay the Bill.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, when the amendment was moved, I was under the impression that the existing law was not sufficiently clear and so, as was mentioned by previous speakers, this Bill should clarify the matter. But after hearing the speeches that have already been made on this amendment, I find that the position is not really so bad. Mr. Ormond has clearly told the House that even if the amendments proposed by my friends are not accepted by the House, according to the existing law, an undivided Hindu family will be treated as a person. Further, as regards legal representatives also, he has said that they would have the protection or advantage of this law. Under no circumstances is the general law of the land being repealed by this legislation. This being the position, I am rather constrained to say that really speaking there is not much force in the argument advanced by my friend that the position requires clarification. Some of my friends have mentioned what had been done in Bihar and in other places. But Bengal always boasts of very clear brains. If we are to follow Bihar in a case like this, the less said about it the better. With such clear brains working all over the country, I do not think we need imitate Bihar at all and be a laughing stock of the world. I would appeal to my friends not to imitate others, less important than themselves. You doubt whether the existing law is sufficiently clear on the point. Mr. Ormond has told you that this amendment is not necessary. My friend Khan Bahadur Naziruddin Ahmad has said exactly the same thing. Up to date, nobody has ever thought of defining anything including the other implications of the Law of Inheritance and other laws prevailing in

the country. With that decision before us, I hope my friends will not press a motion like this and try to follow other provinces which are less advanced. They should wake up like true sons of Bengal and show to others that we are to lead and not to be led by others.

Mr. HAMIDUL HUQ CHOWDHURY: Sir, my view is this. There are certain difficulties, no doubt, so far as the interpretation of different clauses is concerned; because contracts are ordinarily binding on parties, and certain rights which pass to the heirs are provided for by legislation, otherwise they pass with the obligation which automatically arises from the passing of the advantages. Section 24 of this Bill puts the lender under certain obligations to supply to the borrower with accounts and other details of the transaction. The difficulty may arise with regard to the question whether such obligations pass to the heirs.

Mr. KAMINI KUMAR DUTTA: They will not.

Mr. HAMIDUL HUQ CHOWDHURY: Therefore, the position really becomes difficult, and I would suggest at this stage that the Bill may be passed as it is. If any difficulty arises in its interpretation, then it can be suitably amended.

Mr. HUMAYUN KABIR: Since it seems that there is some difference of opinion among legal experts on this point as to whether this particular clause covers a Hindu undivided family, may I suggest to the Hon'ble Minister that the matter may be postponed till the next meeting of the Council? In the meantime, he may discuss with the Leader of the Opposition who is also a lawyer and has something of that clear brain which we have always admired in the Hon'ble Minister and which I think is the common portion of the people of Bengal whether they belong to the Opposition or to the Government. May I suggest to the Hon'ble Minister that the matter may be postponed till the next meeting of the Council?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I think that my hon'ble friend Mr. Humayun Kabir is not a lawyer, whereas other lawyers who have understood the case have given their opinions. If Mr. Humayun Kabir would be silent, it would simplify matters.

Mr. HUMAYUN KABIR: I am a lawyer.

Mr. PRESIDENT: Mr. Pal Choudhury, do you want me to put the amendment in two parts separately?

Mr. RANAJIT PAL CHOUDHURY: Yes, Sir.

Mr. PRESIDENT: The question before the House is that for sub-clause (*10*) of clause 2 of the Bill, the following be substituted, namely:—

(*10*) 'Lender' means a person who advances a loan and shall include a Hindu undivided family".

The House divided with the following result:—

AYES—15.

Chakraverti, Mr. Shrish Chandra.
Das, Mr. Lalit Chandra.
Dutta, Mr. Kamini Kumar.
Maitra, Rai Bahadur Brojendra Mohan.
Mookerjee, Mr. Naresh Nath.
Mookerji, Dr. Radha Kumud.
Pal Choudhury, Mr. Ranajit.
Poddar, Mr. H. P.
Ray, Mr. Nagendra Narayan.
Roy, Mr. Amulya Dhone.
Sanyal, Mr. Sachindra Narayan.
Sarker, Rai Sahib Indu Bhusan.
Sen, Rai Sahib Jatindra Mohan.
Sinha, Rai Bahadur Surendra Narayan.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.

NOES—25.

Ahmad, Khan Bahadur Naziruddin.
Ahmed, Mr. Mesbahuddin.
Ahmed, Mr. Nur.
Baksh, Mr. Kader.
Barua, Dr. Arabinda.
Chowdhury, Mr. Khorshed Alam.
Chowdhury, Mr. Hamidul Huq.
Cohen, Mr. D. J.
D'Rozario, Mrs. K.
Hossain, Mr. Latafat.
Hunter, Mr. H. C. A.
Huq, Khan Bahadur Syed Muhammad Ghazim.
Karim, Khan Bahadur M. Abdul.
Khan, Khan Bahadur Muhammad Asaf.
Laidlaw, Mr. W. B. G.
Molla, Khan Sahib Subidali.
Momin, Begum Hamida.
Ormond, Mr. E. C.
Rahman, Khan Bahadur Ataur.
Rahman, Khan Bahadur Mukhlesur.
Rashid, Khan Bahadur Kazi Abdur.
Roy, Rai Bahadur Radhica Bhusan.
Scott-Kerr, Mr. W. F.
Shamsuzzoha, Khan Bahadur M.
Singh Roy, Mr. Saileswar.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that for sub-clause (*10*) of the Bill, the following be substituted, namely:—

"(*10*) 'Lender' means a person who advances a loan and includes the legal representatives and successors-in-interest whether by inheritance or assignment or otherwise, of a person who advances a loan and includes a money-lender".

(The amendment was negatived.)

Mr. PRESIDENT: The next amendment of the Raja Bahadur is covered by the previous one. So, now we shall take up the amendment standing in the name of Rai Sahib Indu Bhusan Sarkar.

Rai Sahib INDU BHUSAN SARKAR: Sir, I beg to move that sub-clause (*10*) of clause 2 of the Bill, be omitted.

Sir, my reason for moving this amendment is that casual lenders like lawyers, doctors, widows will be excluded from the scope of this Bill, because this Bill will apply only to persons whose professional business is money-lending. A man may be in Government service and, on some occasions, he may lend to friends or relations, but that does not mean that he is a professional money-lender. He would not be compelled to register himself as a money-lender and to pass through the procedure enabling him to recover the loan advanced by him. Suppose a Minister of the Crown or a Judge of the High Court helps a friend or a relation with temporary loans, according to my amendment he should not come within the operation of this Bill and this will render unnecessary the amendment of my honourable friend, Mr. Ranajit Pal Chowdhury, which relates to *Purdanashin* women money-lenders.

Mr. PRESIDENT: Amendment moved: that sub-clause (*10*) of clause 2 of the Bill, be omitted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose it.

Mr. PRESIDENT: The question before the House is: that sub-clause (*10*) of clause 2 of the Bill, be omitted.

(The amendment was negatived.)

Mr. PRESIDENT: The next amendment stands in the name of Mr. Kader Baksh.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, consideration of amendments Nos. 51, 52, 53 and 54 may be postponed for the present.

Mr. PRESIDENT: All the four?

Khan Bahadur NAZIRUDDIN AHMAD: Yes, Sir.

Mr. PRESIDENT: Then, the next amendment is No. 55 standing in the name of the Raja Bahadur of Nashipur.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Sir, I beg to move that at the end of sub-clause (*13*) (*a*) of clause 2 of the Bill, the words "not by way of or for investment" be added.

Sir, if there is a deposit of money or property without interest, then it will not be affected, but to make it more clear I suggest this amendment.

Mr. PRESIDENT: Amendment moved: that at the end of sub-clause (*13*) (*a*) of clause 2 of the Bill, the words 'not by way of or for investment" be added.

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: Sir, I think this amendment is unnecessary. If it is not by way of an investment, then it will not be taken as a loan. I, therefore, oppose the amendment.

Mr. PRESIDENT: The question before the House is: that at the end of sub-clause (*13*) (*a*) of clause 2 of the Bill, the words "not by way of or for investment" be added.

(The amendment was negatived.)

Mr. PRESIDENT: Amendments Nos. 56 to 59 are postponed for consideration. Then come amendments Nos. 61-62.

Mr. HUMAYUN KABIR: Sir, I beg to move that in sub-clause (*13*) (*d*) of clause 2 of the Bill, after the word "loan" in line 1, the words "of rupees five thousand or more" be inserted.

Sir, sub-clause (*13*) of clause 2 of the Bill lays down what is a loan and makes certain exclusions, e.g., deposit of money or other property, a loan to, or by, or a deposit with, any society or association registered under the Societies Registration Act; a loan taken or advanced by any Government. Certain other classes of loans are also excluded from the operation of this Bill. When this Bill was first moved in another place, it was sent to the Select Committee. When it came out of the Select Committee, most of these other classes of loans were included within the operation of this Bill. Loans which are advanced by scheduled banks, co-operative societies or by co-operative life insurance societies and other classes of societies like that were originally included within the provisions of this Bill. Now, Sir, there is no denying whatsoever that one of the greatest hardships on the agriculturists has been on account of loans which they have taken from co-operative banks and therefore this Bill originally wanted to include loans advanced by co-operative banks or even by scheduled banks within the operation of this Bill. Afterwards, in the course of discussion in the Assembly something happened, and the result was that one class after another of loan transactions was excluded from the operation of this Bill. Ultimately, the position, as it stands now, is that most of these classes of transactions are excluded excepting only a few which are made by private money-lenders. The purpose of my amendment is to bring back within the Bill some of those loan transactions which were intended by the Select Committee to which the Bill had been referred in another place within the provisions of this Bill. If we are to give relief to the agriculturists, we must give relief to them from what is

in very many cases the oppression of the co-operative societies. There is no doubt whatever that the co-operative movement was started with a view to benefit the agriculturists, but equally there is no doubt that in many cases co-operative societies have proved oppressive to the agriculturists. And to-day in the country-side generally and in the villages particularly, there is no doubt that in many cases co-operative societies have proved oppressive to the agriculturists. And to-day in the country-side generally and in the villages particularly, there is a considerable feeling against the co-operative societies. In many cases, money has been advanced to the co-operative societies by the Bengal Provincial Co-operative Bank at a rate of interest ranging from 4 to 6 per cent. to the central banks and the latter advance money to the rural banks at, I believe, the rate of 8 or even 9 per cent. Khan Bahadur Ataur Rahman who has been asociated with co-operative societies for a long time will correct me if my figures are slightly inaccurate, but I think this is generally a true description of the state of affairs which obtains in the case of the co-operative societies. Then, the rural societies advance money to the borrowers sometimes at the rate of 12 or 15 per cent. I think that there have been occasions when the rate of interest charged has been even higher than 15 per cent. Obviously, the co-operative societies which were intended to benefit the agriculturists were not intended to be profiteering institutions, and this sort of high rate of interest was brought in only in order to give a higher rate of interest to those who deposit money in the central co-operative societies and provincial co-operative societies. This is why the Select Committee to which this Bill was referred in another place wanted to include co-operative societies within the provisions of this Bill and in this way give relief to the agriculturists. Afterwards, Sir, co-operative societies have been excluded with the result that no relief whatsoever would be given to the agriculturists if the Bill is passed in the form in which it is placed before us to-day. Take again the case of the scheduled banks. There is no doubt whatever that there are certain differences between scheduled banks and private money-lenders. A scheduled bank has to observe certain formalities; it has to live up to a certain standard. This is all true; again it is equally true that a scheduled bank is a public institution. Therefore, the treatment which we should accord to a scheduled bank should be different from the treatment we accord to private money-lenders. But I feel that it is equally true that some of the scheduled banks are nothing but a co-ordination or consolidation of loan societies. Names have been mentioned at times, but I do not want to mention any, of scheduled banks which have been accused of lending money to agriculturists and poor persons at an exorbitant rate of interest.

My amendment proposes to give relief to all those different classes of borrowers, but I want to make a distinction between those who are

able to take care of themselves and those who are not able to take care of themselves. I take it that all persons who borrow Rs. 5,000 or more are persons who have some credit in the market. They have not merely credit in the market but they are generally persons of position in the society. Very often they are persons who have education and who can take legal advice. Since the Bill as it now stands seeks to exclude scheduled banks, co-operative societies and other different classes of organisations which give loans to borrowers, I propose that loans of Rs. 5,000 or more may also be left out. So far as loans of Rs. 5,000 or more are concerned, I do not want in any way to alter the provisions of the Bill. I agree with the Bill that in the case of loans of Rs. 5,000 or more by scheduled banks, by co-operative societies, by mutual life insurance companies, by building societies or other organisations like these, the provisions of this Bill need not apply. That is the Government position and I accept that. But the case is entirely different with regard to loans of less than Rs. 5,000. In the case of, say, a loan of Rs. 200 which has been taken by an agriculturist from a co-operative society and which has now in the course of years amounted up to Rs. 500 or Rs. 600, it is necessary that the provisions of this Bill should apply. If we want to give relief to the agriculturists, it is necessary that my amendment should be accepted by the Government. If they do not accept my amendment, I will take it that they do not want to help the agriculturists and that they are trying simply to avoid the issue. If they pass a high-sounding Bill with a very wide, unlimited and somewhat indefinite scope and then by enumeration they exclude from the operations of the Bill one category after another category till the Bill remains but a mere farce. Indeed, if the transactions or loans in the case of co-operative societies, scheduled bank or other classes of credit institutions which have been mentioned in the course of the Bill, are excluded from the operations of the Bill, then the Bill is a dead letter. Therefore, I move that those who really want the interests of the agriculturists, must support an amendment like this and if they do not, I think, Sir, the country will draw its own conclusions.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*4*) of clause 2 of the Bill in the Explanation, after the word "loan" in line 2, the words "of an amount less than rupees five thousand", be inserted.

Mr. KAMINI KUMAR DUTTA: On a point of information, Sir. We have also got similar amendments in respect of paragraph (*i*) of sub-clause (*13*)(*d*). What I wish to say is that if this amendment is accepted, then the result may be that our amendments will fall through automatically. But our amendments are more comprehensive. By our amendments (64-66), we want altogether to exclude paragraph (*i*) of

sub-clause (*13*)(*d*), and by another amendment (90-92), we want to eliminate the co-operative societies altogether. The object of the amendment of my friend, Mr. Humayun Kabir, is only to exclude a particular amount of money invested by these banks. We want to include both co-operative societies and scheduled banks within the scope of the Bill. If Mr. Humayun Kabir's amendment is accepted by the House, the result will be that our amendment for including the scheduled banks and co-operative societies may not come at all as the House will have accepted that scheduled banks and co-operative societies should be excluded only to a particular extent while we want that they should not be excluded at all. So, I would say, Sir, that our amendments ought more properly to come before this amendment.

Mr. PRESIDENT: The amendment proposed by Mr. Kabir wants that the provisos (1 and 2), may be applicable not to all loans but to some loans not exceeding Rs. 5,000. The passing or rejection of this amendment will not interfere with your amendment.

Mr. HUMAYUN KABIR: If my amendment is carried, then I think the apprehensions of Mr. Kamini Kumar Dutta will be justified.

Mr. PRESIDENT: How?

Mr. HUMAYUN KABIR: If it is carried, then it will read: that loans of an amount less than Rs. 5,000 will be included within the provisions of this Bill.

Mr. PRESIDENT: The remaining portions have not been accepted. There are so many amendments. All that will be accepted by this House is that this section will be applicable only to certain loans.

Mr. KAMINI KUMAR DUTTA: It is the governing clause that I want to amend, Sir.

Mr. PRESIDENT: That will come later.

Rai Sahib INDU BHUSAN SARKER: Mr. President, Sir, I rise to a point of order on the ground of *ultra vires*. This sub-clause of clause 2 contains two paragraphs, viz., (*d*)(*i*) and (*e*), which are hit by the Federal List and are thus beyond the power of this Council. Paragraph (*d*)(*i*) of this sub-clause deals with such scheduled banks which were not on the Scheduled List on January 1, 1939. These banks are by the provisions of this section included within the purview of this section but such scheduled banks are both banking institutions under item No. 38 and corporations under item No. 33 of the Federal

List. Regulation of such federal matters in clause 23 as offences against matters in Federal List will be affected by item No. 42 of the Federal List. Licence fees provided for in clause 10 will be levied in respect of non-scheduled and scheduled bank not notified and excepted as above will be fees within the meaning of item No. 59 of the Federal List. Chapter IV regulates the accounts of the above-named banking corporations and will be hit by items Nos. 33 and 38.

As regards sub-clause 13(*e*), it will be seen that item No. 28 of the Federal List mentions promissory notes and the effect of this sub-section is to include promissory notes within the ambit of the Bill. This will be trespassing on federal powers and so *ultra vires* of this Council.

Sir, this is my point of order.

Mr. PRESIDENT: A point of order has been raised as to whether this Legislature is competent to deal with the banking business by corporations. First of all, I should like to understand from the Hon'ble Minister what his reasons are for introducing this Bill. In the Statement of Objects and Reasons, I find the following:—"The Act of 1933 does not apply to Calcutta within the limits of the Ordinary Original Jurisdiction of the High Court, on the other hand, it applies to all loans made by banks. As regards the latter point the additional sub-section (*3*) added to section 10 of the Act of 1933 by the Government of India (Adaptation of Indian Laws) Order, 1937, may be seen. The powers of the Provincial Legislature are to some extent limited by the terms of Articles 28 and 38 of List I of Schedule VII of the Government of India Act, 1935, and the limitation extends not only to prevent fresh legislation on the matters covered by those articles, but also to prevent amendment of such parts of the Act of 1933 as relate to them. For this reason no attempt has been made to amend the Act of 1933, but a self-contained Bill has been framed,, confined to such matters as it is believed are within the competence of the Provincial Legislature, and a general provision has been made in clause 42 of the Bill to exclude from the operation of the Act of 1933 any loan or any transaction connected with a loan which is subject to this Bill." As I was looking at the Bill which was originally introduced in another place, I found that there were no provisions to include banks. So, I would like to hear from the Hon'ble Minister what was his intention in making that distinction in the Statement of Objects and Reasons appended to this Bill.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: The point is this. My friends are under a misapprehension. They believe that banking means money-lending but a clear distinction has been made in the Government of India Act between banking and money-lending. So far as banking is concerned, that part is left to the Central Government. So far as money-lending is concerned,

power has been given to the Provincial Government. So, if my friends believe that banking is the same as money-lending, then I would say the lesser people have the right of control than the bigger people. If, on the other hand, my friends believe that money-lending is within the purview of the Government of India or the Central Legislature, I think they are all wrong. I have thought over this question not once or twice but probably for the last two years and I am clearly of opinion that the Government of India Act does not contemplate that the money-lending portion or anybody who lends money—never mind what he has—should be excluded from the control of the provincial Government. So, we are in this matter within our rights. We have not encroached upon the right of the Central Government or Central Legislature at all. We have every right to deal with the question of money-lending. Never mind who are the people who lend money and which are the institutions which lend money. Anbody who lends money will come under our control. On this question, I am absolutely clear in my mind that power has been given to this legislature to control all sorts of money-lending and that is why we have given the widest definition for the word money-lending or loan. That is, anything in the nature of a loan is a loan. We have made it as wide as possible, so that there may be no misunderstanding or mistake by anybody. I would appeal to my friends to consider this whether they are prepared to hand over the power of this legislature to the Central Legislature or whether they are prepared to commit suicide. I would appeal to them to consider in their own interests that they should not hand over their power of legislation to the Central Government on any plea whatsoever. On the other hand, in the interests of the country I am of opinion that whenever there is even a shadow of doubt, that doubt should be so explained that the power comes to the provincial legislature who are responsible and who directly represent the people of the country. So, under the circumstances, I would appeal to my friends to make a distinction between the two words, banking and money-lending. I have nothing to do with your banking; you do your banking business in any place you please. But I will not allow you or anybody to interfere with money-lending—it must be left uncontrolled and unfettered by anybody else We want that money-lending should be controlled by us and that is a power which has been vested in us by the Government of India Act.

Rai Bahadur SURENDRA NARAYAN SINHA: Sir, may I suggest that the opinion of the Federal Court through the Governor-General may be taken on this point?

Mr. PRESIDENT: We have no right to consult the Federal Court. It is only His Excellency the Governor-General who can refer an intricate constitutional issue for the opinion of the Federal Court.

Raja BHUPENDRA NARAYAN SINHA Bahadur: of Nashipur: Sir, you are going to adjourn the House just now. Under the circumstances, may I request you not to give your ruling on this point to-day?

Mr. PRESIDENT: I shall not give any ruling to-day. But I would draw the special attention of the Hon'ble Minister to the wider question that will arise later on, namely, what he really means when he says in his Statement of Objects and Reasons that "the limitation extends not only to prevent fresh legislation on the matters covered by those articles"—meaning Articles 28 and 38. I draw the attention of the Hon'ble Minister to this point and I hope he will make the point clear on the next day.

I have also gone through the Adaptation Order referred to in the Money-lenders Act, 1933. There also you have included in section 10 (3), the following, viz., "the powers conferred by this section on the Provincial Government shall, in relation to banking business carried on by any corporation, be powers of the Central Government". It is not doubted that the Provincial Legislature has absolute right to legislate on money-lenders and money-lending. That proposition is accepted but if there is any encroachment on the exclusive field of the Federal Legislature, then the principle that in cases of overlapping the power of the Federal Legislature will prevail, should hold good.

As regards banking business, there are decided cases by Their Lordships of the Privy Council. I would specially draw the attention of the Hon'ble Minister to get himself properly instructed on the next day about what is meant by the word "banking". It is not banks but banking which is the crucial word to be taken into account in this connection. There is a great deal of difference between these two terms. Banking is a much wider term and in several books on Constitution I have found that they have made a distinction between these two terms. I find that in the Constitutional Laws of the British Empire by Jennings, the word "bank" includes "banking, incorporation of banks and the issue of paper money". Says Jennings, "The question then is as to the true nature and character of the legislation or as to what is the pith and marrow of the legislation. This seems to mean that the specific heads refer to purposes. If the purpose of legislation is to regulate banking, then only the Dominion is competent". In the Canadian Constitution, they make a distinction between the functions of the Dominion Legislature and the State Legislature and it has been defined that banking includes all transactions that are the legitimate functions of a bank. In Stroud's Judicial Dictionary, we find "banking" defined as follows:—"The British North America Act of 1867, Section 91, gives to the Parliament of Canada exclusive legislative authority over matters relating to banking in the Dominion. That expression is wide enough to embrace

every transaction coming within the legitimate business of a banker". Here, please mark the words "coming within the legitimate business of a banker". So, to what extent money-lending comes within the legitimate business of a banker has to be decided. I have not come to any decision yet nor shall I give any ruling to-day. But I would draw the special attention of the Hon'ble Minister to this point so that he may clarify it when we meet next.

Adjournment.

The Council then adourned till 2 p.m. on Monday, the 18th December, 1939.

Members absent.

The following members were absent from the meeting held on the 15th of December, 1939:—

(1) Rai Bahadur Keshab Chandra Banerjee.
(2) Rai Bahadur Manmatha Nath Bose.
(3) Mr. Humayun Reza Chowdhury.
(4) Khan Bahadur Rezzakul Haider Chowdhury.
(5) Mr. Narendra Chandra Datta.
(6) Khan Bahadur S. Fazal Ellahi.
(7) Khan Bahadur Alhaj Khwaja Muhammad Esmail.
(8) Mr. Kanai Lal Goswami.
(9) Nawabzada Kamruddin Haider.
(10) Maulana Muhammad Akram Khan.
(11) Rai Bahadur Satis Chandra Mukherji.
(12) Mr. J. B. Ross.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Monday, the 18th December, 1939, at 2-15 p.m. being the thirteenth day of the Third Session, pursuant to section 62(2)(a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Grant for Youth Welfare Scheme.

78. Begum HAMIDA MOMIN: (a) Will the Hon'ble Minister in charge of the Education Department be pleased to state the manner in which the allotment of Rs. 72,000 sanctioned in the Budget of 1939-40 for Youth Welfare is being used?

(b) In what proportion is it proposed to spend for the benefit of boys and girls?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar (on behalf of the Hon'ble Mr. A. K. Fazlul Huq): (a) The allotment is not Rs. 72,000 but Rs. 75,000 which is being used in the following way:—

	Rs.
(i) Short training courses for teachers ...	13,000
(ii) Grants to Inter-School Sports Associations ...	10,000
(iii) Grants to District Youth Welfare Councils and Youth Clubs	26,000
(iv) Grants to schools for providing facilities for physical education	26,000
Total ...	75,000

Begum HAMIDA MOMIN: With reference to answer (a)(i), will the Hon'ble Minister be pleased to state how short training courses for teachers can be included in the allotment for Youth Welfare?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: The teachers will be employed in giving physical training to boys according to the scheme.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Are we to understand that nothing is going to be spent for girls from this year's grant?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: As I have stated in answer (*b*), we are trying to see how much we can give for girls.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Nothing during the current year?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: We have not got the figures. I understand that the department is trying to get figures to see how much money can be distributed for girls as well.

Relief work in the Murshidabad district.

79. Khan Bahadur ATAUR RAHMAN: (*a*) Will the Hon'ble Minister in charge of the Revenue Department be pleased to state what amount of money has been spent in test relief work in the Murshidabad district after the flood of 1938?

(*b*) Through what agencies was the money spent?

(*c*) What supervision and control had the Government exercised over the work?

(*d*) Was all the expenditure made on public utility works such as roads, bridges etc.?

(*e*) Is it not a fact that an embankment on the eastern bank of the Dwaraka river was erected between the villages Indra Dangapara and Sakhoghat with the money given for test relief on the plea of a road?

(*f*) Is it not a fact that a *bund* in the *beel* lands of some influential zemindars was erected out of the said fund between Indra Dangapara and Basia *ghat* on the plea of a road?

(*g*) What amount of money was spent on the two items referred to in paragraphs (*e*) and (*f*)?

(*h*) Will the Hon'ble Minister be pleased to state if the Public Health Department was consulted when the said embankment and the *bund* were constructed? If not, why not?

(*i*) Will the Hon'ble Minister be pleased to state if these embankments and the *bunds* affected the drainage of the locality?

(*j*) Is it a fact that as an effect of these embankments and *bunds* the last July flood brought ruin to many villages?

(*k*) Is it a fact that these *bunds* were breached in many places by the last flood of July?

(*l*) Does Government propose to take steps to see that they are not repaired without enquiries by Irrigation and Public Health Departments?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar (on behalf of the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) Rs. 5,26,779 up to the 17th November, 1939.

(*b*) Through the agency of the District Board of Murshidabad.

(*c*) The work was carried on by the District Board under the supervision and control of the Collector.

(*d*) Yes, but it includes the pay of the staff and contingencies.

(*e*) No. It is a high road.

(*f*) No. A District Board scheduled road between Basia *ghat* and Juran-Kandi has been raised and improved on the recommendation of the Subdiyisional Officer, Lalbagh. The road is about 5 feet below the high flood level.

(*g*) Rs. 10,893.

(*h*) As the work had to be started in a hurry to relieve the distressed people, there was no time to consult the Public Health Department.

(*i*) No.

(*j*) No answer could be given without investigation by irrigation experts which would take time.

(*k*) The *bunds* were breached at five places, especially where the road could not be completed for want of time.

(*l*) Yes.

Khan Bahadur ATAUR RAHMAN: With reference to answer (*i*), will the Hon'ble Minister be pleased to state if the Government have made any enquiry as to whether this has affected the drainage of the country?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Sir, I do not think that it comes under the Revenue Department. But I may state on behalf of my department that an investigation has been started by the Irrigation Department.

Khan Bahadur ATAUR RAHMAN: In reply to question (*h*), it has been said that the work was started without consulting the Public Health Department. Is there no order that no such embankments or roads should be constructed without consulting the Public Health Department?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: I admit that it was an unusual procedure undertaken at a time of unusual necessity and I believe that the Health Officer of the District Board was consulted.

Khan Bahadur ATAUR RAHMAN: Is the Government aware that such unusual action of the Government has affected the country unusually in the matter of drainage?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: I do not think so.

The All-India National Planning Committee.

80. Mr. LALIT CHANDRA DAS (on behalf of Mr. H. P. Poddar): Will the Hon'ble Minister in charge of the Industries Department be pleased to state in details what part the Government of Bengal has played or has been playing in the All-India National Planning Committee set up by the Indian National Congress.

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar (on behalf of the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca): Government have agreed to co-operate with this Committee and to contribute towards its expenses the sum of Rs. 5,000 which was asked for by the Committee. They have also agreed to allow their officers to serve on the various Sub-Committees and the following officers of the Agriculture and Industries Department are serving on the Sub-Committees indicated:—

(1) Mr. S. C. Mitter, Director of Industries, Bengal—Rural and Cottage Industries Sub-Committee.

(2) Dr. R. L. Datta, Industrial Chemist, Bengal—Chemical Sub-Committee.

(3) Mr. F. J. Gossip, Live Stock Expert, Bengal—Animal Husbandry and Dairying Sub-Committee.

Silting up of the Chandana, Kumar and Palong-Nária rivers.

81. Mr. MOAZZEMALI CHOWDHURY: (*a*) Is the Hon'ble Minister in charge of the Communications and Works Department aware that the Chandana, Kumar and Palong-Naria rivers in the district of Faridpur have been almost silted up and have become unnavigable during the winter season?

(*b*) Is he aware that owing to the silting up of the Lower Kumar, the Local Government has lost an annual income of a few lakhs of rupees from the *tol* collection on the *bil* route?

(*c*) Is he aware that owing to the silting up of the above-mentioned rivers, communication by steamers and boats in many parts of the district of Faridpur have become impossible?

(*d*) Has the Hon'ble Minister considered the fact that the lock and sluice-gates put up at the mouths of several canals falling into the Lower Kumar have become useless for the purpose of protecting the Lower Kumar from being silted up? If so, why are those gates still maintained resulting in considerable injury to agriculture, health and communication of the public concerned and also recurring loss to the Government revenue?

(*e*) Has the Hon'ble Minister's department prepared any scheme for dredging the above-mentioned rivers or for resuscitating all or any of the above-mentioned rivers? If so, when does the Government propose to implement those schemes?

(*f*) Is it the decision of the Local Government not to make any attempt to improve the steamer and boat communication in the district of Faridpur?

(*g*) Does the Local Government propose to move the Government of India to open new railway lines to remove the difficulties of communication in that district?

MINISTER in charge of the COMMUNICATIONS and WORKS DEPARTMENT (the Hon'ble Maharaja Srishchandra Nandy, of Cossimbazar): I am making enquiries and will give the desired information in due course.

Statement about steps taken by Government to implement the decision of the Council.

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Sir, in accordance with the provisions of sub-rule (2) of rule 95 of the Bengal Legislative Council Procedure Rules, I have the honour to make

the following statement regarding the action taken by Government on the resolution regarding floods in Nadia, Murshidabad and Jessore districts, which was passed by the House on the 2nd May, 1939.

The departmental officers were instructed to make an investigation of the problem in the areas mentioned in the resolution and preliminary reports have been received by the Chief Engineer. The following is a summary of reports regarding obstructions at certain specified places:—

	Places.	Nature of railway obstruction.	Action taken.
1.	At the crossing of the old Jabuna river near Madanpur Railway station in Nadia district.	The bed of the river near the station has completely silted up causing drainage congestion in low-lying lands across the railway line.	It has been recommended that a certain amount of flushing may be effected if a bridge is constructed. The Eastern Bengal Railway administration have been requested to say if they are agreeable to do this.
2.	Mileages 135/21 and 136/23 of the Ranaghat-Lalgola Ghat section.	Affluxes more than 1 foot were observed during the 1938 floods.	The Chief Engineer has directed the Superintending Engineer to ascertain if the affluxes were due to the Bhagirathi flood trying to force its way into the country-side protected by the Railway Embankment.
3.	Bandel-Barharwa Railway line in the Murshidabad district (area west of the Bhagirathi river).	There are many openings in the line through which the flood water of 1939 coming down the Moro, Dwarka, Brahmani and other rivers could not find adequate passage.	Under detailed investigation by the Executive Engineer, Western Development Division.
4.	Barharwa-Azimganj-Katwa Railway line in Murshidabad district-specially between Azimganj and Tildanga stations.	The Collector of Murshidabad has reported that during the floods of 1938 the water level on the eastern side of the embankment was in some places about 2 feet higher than that on the western.	The matter is under investigation by the Chief Engineer, Irrigation, in consultation with the Railway Administration.

Report of the Committee on Public Accounts and Demands for Excess Grants, 1937-38.

Mr. PRESIDENT: Order, order. The next item on the Order Paper is the discussion of the Report of the Committee on Public Accounts and Demands for excess grants, 1937-38. There are different procedures followed in different countries in the matter of the discussion of the Reports of the Public Accounts Committee. Ordinarily, it is the duty of the Finance Minister to move that the report be taken into consideration. But I do not find the Finance Minister present in the

Chamber now. Is there any Hon'ble Minister here who can represent the Government? The presence of the Hon'ble Finance Minister here to-day is required under section 109 of the Procedure Rules of the House.

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Mr. President, Sir, may I submit that the report be taken into consideration?

Mr. PRESIDENT: There are further difficulties. Of course, in this discussion the Finance Minister is expected to be present. It is disrespectful to the House if the Minister in charge of the Finance Department is absent without giving any intimation to the Chair when the Report of the Committee on Public Accounts and Demands for excess grants, 1937-38, is to be discussed.

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: I may state, Sir, that the Hon'ble Finance Minister is not keeping very good health, and I think he will come here shortly.

Mr. NARESH NATH MOOKERJEE: Sir, no useful purpose would be served if we proceed to discuss this matter, because I do not think the Hon'ble Minister in charge of the Communications and Works Department would be really prepared to reply to all the questions that we might raise during the debate. Would it not be advisable to postpone the discussion?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: I can take down notes, and when the Finance Minister comes here he will be in a position to give a reply to them.

Mr. PRESIDENT: For future guidance of the House and of the Ministers I say that if any Hon'ble Minister is absent whose presence in the Council is absolutely necessary, he must inform the Chair. I accept the suggestion of the Opposition that the discussion be postponed in the absence of the Finance Minister.

The next matter is further consideration of the Bengal Money-lenders Bill. The Hon'ble Minister in charge of the Bill is absent, and I cannot allow the proceedings to continue in the absence of the Hon'ble Minister in charge.

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: I suggest that in the absence of the Hon'ble Minister in charge of the Money-lenders Bill, further consideration of the Bill be postponed.

Mr. PRESIDENT: There is no other business, and the Chair is compelled to adjourn the House. But at the same time it would be for the House to consider if the Ministers should treat this House in this way. I find only one Hon'ble Minister present. The most important business like the discussion of the Report of the Committee on Public Accounts and further consideration of the Bengal Money-lenders Bill cannot be taken up by the House in the absence of the Hon'ble Ministers.

I adjourn the Council till 2-15 p.m. to-morrow.

Adjournment.

The Council then adjourned till 2-15 p.m. on Tuesday, the 19th December, 1939.

Members absent.

The following members were absent from the meeting held on the 18th of December, 1939:—

(1) Khan Bahadur Naziruddin Ahmad.
(2) Mr. Nur Ahmed.
(3) Rai Bahadur Keshab Chandra Banerjee.
(4) Rai Bahadur Manmatha Nath Bose.
(5) Mr. Moazzemali Chowdhury.
(6) Mr. Humayun Reza Chowdhury.
(7) Khan Bahadur Rezzakul Haider Chowdhury.
(8) Mr. Kamini Kumar Dutta.
(9) Khan Bahadur S. Fazal Ellahi.
(10) Khan Bahadur Alhaj Khwaja Muhammad Esmail.
(11) Mr. Muhammad Hossain.
(12) Mr. H. C. A. Hunter.
(13) Mr. Humayun Kabir.
(14) Maulana Muhammad Akram Khan.
(15) Mr. W. B. G. Laidlaw.
(16) Mr. H. P. Poddar.
(17) Mr. J. B. Ross.
(18) Mr. K. C. Roy Chowdhury.

B. G. Press—1939-40—11985A—750.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Tuesday, the 19th December, 1939, at 2-15 p.m. being the fourteenth day of the Third Session, pursuant to section 62 (2) (a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Donation of Lady Jagadish Bose.

82. Mr. H. P. PODDAR: Will the Hon'ble Minister in charge of the Education Department be pleased to state whether it is a fact—

(a) that Lady Jagadish Bose offered a donation of Rs. 50,000 to the Government for creating two scholarships for the students of Botany in the Presidency College, Calcutta;

(b) that Lady Bose attached a condition precedent to the donation that only Hindu boys shall be eligible for the scholarships;

(c) that the Government declined the offer;

(d) if so, why?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK (on behalf of the Hon'ble Mr. A. K. Fazlul Huq): (a) Yes; but the scholarships were for Physiology as well as Botany.

(b) Yes.

(c) No. The facts were mentioned in a statement by the Director of the Bose Institute published in the Press. Attention is invited to that statement.

(d) Does not arise.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state what is that statement that was made by the Director of the Bose Institute?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: The statement was published some time towards the end of November last indicating the conditions under which these scholarships were tenable in regard to the two subjects.

Mr. LALIT CHANDRA DAS: What were the conditions?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I must ask for notice.

Mr. LALIT CHANDRA DAS: Is the Hon'ble Minister entitled to draw the attention of the House to a statement that was published in the Press?

The Hon'ble Khwaja Sir NAZIMUDDIN: That is a matter for the Hon'ble President to decide.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I submit that the statement was published in the Press and it was available to the public including the honourable members of the House.

Mr. LALIT CHANDRA DAS: On a point of order, Sir. Is the Hon'ble Minister entitled to refer the members of this House to a Press statement which is not a statement made by Government?

Mr. PRESIDENT: The Hon'ble Minister cannot assume that whatever is published in the Press is known to the members of the House.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I am only submitting with reference to this particular matter that a statement was issued by the Director of the Bose Institute himself indicating the conditions attached to these scholarships.

Mr. PRESIDENT: In answer to questions, such reference to what appears in the public press will not be allowed in future.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I hope if we put up a copy of the statement on the Library table, it will be quite correct.

Mr. PRESIDENT: Yes.

Mr. LALIT CHANDRA DAS: Arising out of answer (*c*), will the Hon'ble Minister be pleased to state what are the grounds which led the Government to decline the offer?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: The offer has not been refused.

Military service in the War.

83. Khan Bahadur SAIYED MUAZZAMUDDIN HOSSAIN: (*a*) Will the Hon'ble Minister in charge of the Home Department kindly state if the Provincial Government of Bengal has offered to raise some units from amongst the Bengalis for Military service in the War?

(*b*) If not, will the Hon'ble Minister kindly make such an offer for helping the Bengalis to acquire Military experience by playing their part in the War?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): The Provincial Government have offered their full co-operation to the Government of India in the prosecution of the War and this co-operation will extend to rendering all possible assistance in raising units for Military service from amongst the Bengalis, should such assistance be required by the Government of India.

Mr. RANAJIT PAL CHOUDHURY: In view of the War Resolution passed yesterday, do Government expect spontaneous co-operation from the people of Bengal in raising units?

The Hon'ble Khwaja Sir NAZIMUDDIN: Most certainly.

Presentation of Select Committee Report on the Bengal Patni Taluks Regulation (Amendment) Bill, 1938.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: May I, with your permission, Sir, present the report of the Select Committee on the Bengal Patni Taluks Regulation (Amendment) Bill, 1938, which was sponsored by Khan Bahadur Rezzaqul Haider Chowdhury?

Point of Privilege.

Mr. NARESH NATH MOOKERJEE: May I rise on a point of privilege, Sir?

Mr. PRESIDENT: Yes, what is your point?

Mr. NARESH NATH MOOKERJEE: Sir, in a state of utter helplessness I have to rise to-day to draw your attention to the disregard and carelessness with which Government desire to conduct the proceedings of this House. Sir, even when the nature of the business tabled

demands the presence of a particular Minister in this House, he chooses to be absent. I cannot help recalling the events of yesterday. As you know, Sir, we decided to meet yesterday 15 minutes before the usual time and we acceded to the wishes of the Government Whip in order to suit the convenience of Government. But unfortunately, Sir, the Hon'ble Maharaja Srischandra Nandy, Minister in charge of Communications and Works, was the only member of the Cabinet present in the Chamber. As a result of that, we were unable to take up important discussions which were scheduled for yesterday. The Hon'ble Finance Minister was engaged elsewhere and he was unable to be present. The Hon'ble Nawab Musharruff Hossain, Minister in charge of the Judicial and Legislative Departments, did not think it necessary to be present although the Money-lending Bill, which is a most important measure and which he himself is piloting in this House, was tabled for discussion. We had to come here and draw on the public exchequer and go away without doing the business that we were summoned to do. We, on this side of the House, Sir, feel that we cannot be a party to such waste of public money. Certainly, Sir, our time is as valuable as that of the members of the Cabinet. I do not, however, wish to make them feel that we are raising this point merely for the sake of Opposition. But the fact remains that we had to go away and a whole day was wasted without any work being done. Even during the Question hour, it has become a common practice for the Ministers in charge of the particular departments to which the questions relate to be absent, with the result that members of this House are unable to obtain full and satisfactory answers from the supplementary questions which they are entitled to have, it being the inherent right of members of this House. The answers are generally either vague or evasive. We, on this side of the House, feel that we are carrying a definite responsibility and we feel ourselves unable to be a party to such waste of public money. We would appeal to you, Sir, to take this matter up in all earnestness, and we hope that you will do the needful. We know that you have very often in the past drawn the attention of members of Government to such lapses, but unfortunately we do not find any improvement whatsoever. We hope, Sir, that as we have given all privileges of this House to the members of Government, although they are not full-fledged members of this House,—in fact they have more privileges than we ourselves have,—they will certainly give their attention to the business that is before the House, particularly when it is public duty. I do not wish to use the words "neglect of public duty" which is a harsh expression, but I am unable to find any other language to give expression to my feelings. I may be excused for any harsh language that I may have used. As the custodian of our rights and privileges, we entirely depend on you, Sir, to put this matter right.

The Hon'ble Mr. NALINI RANJAN SARKAR: Sir, I am extremely sorry that I could not be present at the Council meeting yesterday, and that as a consequence the scheduled business of the House, namely, disscussion on the report of the Public Accounts Committee and supplementary budget estimates had to be postponed. Sir, I am very sorry for it, and I apologise to you and to the members of this House for having caused this inconvenience to them. But I can assure you, Sir, that it was not due to any disrespect to this House that I was not able to be present here yesterday. So far as I am concerned, yesterday was a critical day for me, and so I could not attend to my normal duties. Mr. Mookerjee has raised various points about the wasting of a day and spending of money from the Public Exchequer. On this last day of my office as the Finance Minister, I do not want to be harsh, particularly when we are guilty. I do not want to give any reply to his charges, but if occasion arises I think members of the Treasury Benches will be able to show that if one day's absence has caused much expenditure from the Public Exchequer, how money from the Public Exchequer is not always very fruitfully used. But I do not want to say anything more, because I am at fault. I, on behalf of myself and of my colleagues, apologise to you, Sir, and to the House for the inconvenience caused due to our absence from the Chamber.

Rai Bahadur BROJENDRA MOHAN MAITRA: What about your other colleague?

Mr. PRESIDENT: Order, order. When the Hon'ble Finance Minister has explained the reasons for his absence and also apologised to the House, I think this matter is closed.

Statement by the Hon'ble Finance Minister.

The Hon'ble Mr. NALINI RANJAN SARKAR: With your permission, Sir, I want to say a few words also by way of reply to the remarks made in my absence by Khan Bahadur Abdul Karim.

Mr. PRESIDENT: All right.

The Hon'ble Mr. NALINI RANJAN SARKAR: First of all, Sir, the Khan Bahadur requested you that my speech on the War Resolution should be expunged from the proceedings of this House, because according to him, I cannot express my views in this House except the Government point of view. I think, Sir, the Khan Bahadur is not quite correct in taking up that position. Section 64 of the Government of India Act, 1935, gives me, as an individual Minister, ample right to express my own views. (Cries of "Hear, hear" from the Congress

benches) under that authority, I expressed my views. As to whether I say anything in conformity with the Government point of view or not, that is a matter between myself and my colleagues. I can assure this House that I got the permission of my colleagues to express my views on all non-official resolutions in this House. Then again, Sir, there are Parliamentary precedents to show that Ministers in a Coalition Government are allowed to exercise their freedom of vote and speech in an individual way. I do not think I have transgressed any of the constitutional practices or usages.

Dr. RADHA KUMUD MOOKERJI: May I know, Sir, what is the explanation of the words "Coalition Government" which the Hon'ble Minister has used?

The Hon'ble Mr. NALINI RANJAN SARKAR: Coalition Government is a Government by a combination of three or four parties.

There is another thing in this episode which has pained me very much, Sir, because it came from the mouth of Khan Bahadur M. Abdul Karim whom I have always looked upon as my elder brother. The Khan Bahadur evidently sought to ridicule me by saying that I am an emissary of Wardha in this House. I can at once say to the Khan Bahadur that in the position which he and his associates have created for me, I am tempted to say that Wardha has become a place of pilgrimage for me, and that the Khan Bahadur should never expect that I would always act like a faithful disciple of Mount Pleasant Road, Bombay. Sir, I have always tried to appreciate and to work up to the point of view of my friend and his party. But if he expects that I should always voice their sentiments as a gramophone and if he considers that to be a condition precedent of my being a Minister here, I think the Khan Bahadur has not known me yet and that he does not know under what conditions I joined this Ministry. If the Khan Bahadur wants to exact such a surrender of my judgment from me, I must say, it is too big a price, and he cannot expect to get it at least from me. This being the last day of my appearance before you, I do not want to say any harsh words. Sir, I have tried my level best, as far as I could, to discharge my duties as faithfully, as loyally and as ably as I could. In the discharge of my duties as the Finance Minister, in defence of the Government policies I might have occasionally used harsh expressions. On this occasion, I request the hon'ble members of the House individually to forgive me if I have given offence to them on any occasion. I will always remember the courtesy, the appreciation, the kindness, that they and you particularly, Sir, have always shown to me in this House. I will never forget those acts of kindness and appreciation. It will give me a great stimulus in my future public duties. To you, Sir, I want to say that you are a life-long friend of

mine. You have been not only a friend in prosperity but a friend in adversity too. If forgetting my relationship in this House, I have overstepped the limits on some occasions, on account of our past friendship, I hope you will be able to forgive me.

Speeches in appreciation of the services of the Hon'ble Mr. N. R. Sarkar.

Mr. E. C. ORMOND: Sir, before you take up the business of the House, may I say that the statement just now made by the Hon'ble Finance Minister is news to the members on this side of the House which we had not come prepared to receive.

Mr. PRESIDENT: If you would like to say anything on the statement made by the Hon'ble Finance Minister, I shall allow you.

Mr. E. C. ORMOND: Sir, I am very much obliged to you for this. I am not in a position to say anything, on behalf of the party to which I have the honour to belong, that the situation might call for. I am not either in a position to express any views on behalf of my party in regard to any of the circumstances which have led up to this fact, and I do not wish to keep the House waiting before their other business. I wish merely to say that the members of my party would take this opportunity of saying that we have very much appreciated the efficiency and the devotion to duty that has been shown by the Hon'ble Finance Minister ever since he assumed charge of his office. (Hear, hear.) I say this irrespective of the merits of the dispute, if there has been a dispute, and irrespective of the nature of the circumstances which have led up to this situation. I only wish not to let this moment go by without recording that fact on behalf of the members of the party to which I have the honour to belong.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Mr. President, Sir, I beg to associate myself with what has been said by Mr. Ormond on behalf of the European Group. My party also feels very much and regrets the fact that the Hon'ble the Finance Minister has decided to resign from the Cabinet. We appreciate the work he has done both for the Government and for the public. As a matter of fact we, the members of this Council, feel that the Council would suffer a great loss by his absence.

Mr. W. B. G. LAIDLAW: Sir, before members of other parties express words of regret at the decision of the Hon'ble Finance Minister, I would like to take upon myself the task of persuading the Hon'ble Finance Minister to change his mind, although I do not suppose that

there is any the slightest hope of that. Indeed, I do not suppose one so junior as I am in this House has the slightest chance of persuading him. Sir, we have greatly appreciated the value of his services to Bengal. We recognise in him a great financial expert the like of which is not often seen. The problems with which he had been confronted during the past three to four years have been tremendous, and he has tackled them with a skill and efficiency which I do not think has been matched by many people in this province. It is with the greatest regret, as Mr. Ormond has already said, if he has made his final decision, that we should see him go. Sir, this is the time when countries in Europe of the highest civilisation—they are generally regarded as those having the highest civilisation—have so far forgotten their position as to go to war and use arms against one another. If the Finance Minister and his opponents cannot bring themselves to settle this matter amicably so that we may have his services for the benefit of Bengal, then to my mind, it is a poor index for the future of this province. I would make this humble appeal to him and to those who oppose him to endeavour to compose their differences. Let us look to the good of the province, and let us hope that it may be possible for all concerned to change their mind just sufficiently to meet one another. After all, when great countries in Europe are fighting and using arms against one another, it is not altogether surprising. Although we do not altogether agree with what the Finance Minister said in his speech on the War Resolution,—we are rather inclined to hold that in this case it stands to reason that at a time when countries all over the world are having their future in the melting pot as it were—there should be some who would have not altogether extreme views but certainly unusual views, views with which others could not possibly agree. It is in that light, I think Mr. Sarkar spoke the other day, that everything was in the melting pot and so he had an opportunity of putting his views before this House. I would be the last person to say that he was wrong in so doing in the light of his views. Although I do not agree with him, still I admire him.

As a matter of constitutional practice, I am under the impression, that as far as section 64 goes, he is able to speak as a member of the Legislature and to take part in the proceedings; but as a member of the Cabinet it is to be expected that he would uphold the Cabinet's views. All that is required on this one occasion, when, as I say, the affairs of countries all over the world are in the melting pot, is that he should be excused this lapse from constitutional practice. My appeal is made most humbly and I beg that he may reconsider his decision.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I also join in the tribute paid to the efficiency and ability with which the Hon'ble Finance

Minister has discharged his duty. Apart from his efficiency and ability, he has always shown unfailing courtesy to members of this House. I think this point needs no elaboration.

Sir, the Hon'ble Finance Minister has said that as a Minister he had every right to express his personal views in this House. I have not the least doubt that the Hon'ble Finance Minister is right, and I have not the least doubt also that the views expressed by Khan Bahadur Maulvi Abdul Karim amounted to a most ordinary right of criticism. In fact, I do not think that he overstepped the limits of criticism. It is quite possible to disagree with him, but it is impossible to hold that he expressed something which, as an ordinary member of this House, he had no right to express. What seems to have been passing in the mind of many of us has been expressed by Mr. Laidlaw when he said that members of this House would expect,—not that they could legally expect but constitutionally expect,—some amount of uniformity amongst members of the Cabinet with regard to their views on important issues. But, as I have already submitted, the Hon'ble Finance Minister as a Minister had every right under section 64 of the Government of India Act, 1935, to come to this House and express his personal views. There he is right. In view of the fact that the Hon'ble Finance Minister has made a statement that this is his last day in this House, a statement which, I also admit, has taken me by surprise and has caused pain not only to me but to many members on this side of the House,—in the face of all these things, it would not be at all necessary to labour the point.

I again reiterate my high appreciation which, I doubt not, is shared by a large number of my friends in this House, of the sincere and able work which has been done by the Hon'ble Finance Minister in this House. He has risen by dint of sheer merit and ability from, what I may say, an absolutely ordinary position to the highest position in the country. I fervently hope that after this resignation he will rise higher and higher in the estimation not only of his poor and humble friends here but of the whole province and, I believe, of the whole of India.

Dr. RADHA KUMUD MOOKERJI: Sir, on behalf of the party to which I have the honour to belong, I may say that we, on this side of the House, deeply appreciate the reason which have led up to the crisis to which reference has been made by the Hon'ble Finance Minister.

We also want to place on record our appreciation of the able manner in which he had been discharging the duties of the exalted office which he filled in this Government. Since, however, a reference has been made to section 64 of the Government of India Act, we also, on this side of the House, wish to make it clear that we agree with the

Hon'ble Finance Minister as regards the interpretation that he has put upon the implications of that section. It is, in a sense, a point of order and I should like to explain on my own behalf, because I had not the privilege of consulting my own party in this connection, that I think the wording of this section makes it clear that a Minister in his individual capacity can certainly speak in this House and express his personal views on the issues that might crop up. On the present occasion, the Hon'ble Finance Minister was very careful in stating at the outset of his speech that he not merely consulted his colleagues in the Cabinet as to the statement which he was going to make on the War Resolution but that he was authorised by the Cabinet to make the statement which he made before this House. Under the circumstances, I do not know how a crisis can at all develop. If a particular Minister has been allowed by his own Cabinet to take a certain line of action, I do not see how there can be any other source of authority by virtue of which the Cabinet as a whole can let down one of their most distinguished colleagues. I think there is too much of party politics involved in this episode and I do not think that the Cabinet should at all have submitted to the mandate of the party. After all, the Cabinet is there to lead the party. It is an ignominous manner in which the Cabinet is behaving by *kao-towing* to the mandates of a big following. I do hope that the Cabinet will yet rise equal to the occcasion to be able to impose their own voice upon the party.

Sir, as I have already said, in my opinion the Hon'ble Finance Minister was entirely within the limits of the Constitution in making the speech and the statement with which we were treated the other day. There have been precedents for that kind of action—I think on the question of the Municipal Bill and perhaps on certain other measures, notably the Calcutta and Suburban Police (Amendment) Act—when Ministers had expressed their own personal views in this House. We are used to the extreme fairness with which the Hon'ble Sir Nazimuddin treats this Council, and I cannot but pay a tribute to his extreme sense of fairness for always saying very carefully that in some matters he is expressing his personal views and not the views of any party or any outside authority on the subject. Therefore, I should think there is a kind of commonsense view of these subtle and legal matters and that commonsense view might have been taken even in matters on which the Hon'ble Finance Minister had proceeded with the utmost possible caution and scrupulous regard for constitutional etiquette and practice.

Before sitting down, I may once again endorse the words of appreciation which have fallen from the leaders of other groups as to the work done by the Hon'ble Finance Minister. We, on this side of the House, Sir, disagreed with him on principle on many matters, but on the issue on which he is contemplating his resignation—on this issue

and on the particular stand which he has taken for that principle in which we believe,—on this particular issue,—he has our whole-hearted sympathy. (Cries of "Hear, hear" from Congress Benches.) We always felt that the Hon'ble Mr. N. R. Sarker was looking rather small as a member of this Cabinet. We felt that he would be very big as the unfettered public leader in the province. I believe that he has a wider sphere of usefulness awaiting him when he leaves the trammels of office. Sir, I once more congratulate him on the particular stand that he has taken for the principle in which he believes. (Cries of "Hear, hear" from Congress Benches and loud cheers.)

Mr. PRESIDENT: The Chair very much regrets that this House will be deprived of the assistance that it used to have from the Hon'ble Finance Minister. The Chair has no opinion, cannot have any opinion, about the question of resignation of any particular Minister. As to the point that was raised, I think and I hold that Khan Bahadur Abdul Karim was wrong from the point of view of constitutional practice and propriety. (Cries of "Hear, hear" from the Congress Benches.) I would certainly not have permitted the Hon'ble Finance Minister to make that speech, had I held otherwise. As it is a past matter and as a matter of fact when I had allowed the Hon'ble Finance Minister to make that speech, that point of order could not be raised. However, if any precedent is necessary, I can quote any number of precedents from parliamentary institutions which would show that individual Ministers have been allowed to give expression to their own views on very important questions. I would refer the Khan Bahadur to two books.

At present I am referring to "Cabinet Government" by Jennings at page 220, where with reference to a similar crisis it is laid down,—"The Cabinet, however, is deeply impressed with the paramount importance of maintaining national unity in the presence of grave problems now confronting this country and the whole world. It has accordingly determined that some *modification* of the usual Ministerial practice is required and has decided that Ministers, who find themselves unable to support the conclusion arrived at by the majority of their colleagues on the subject of Import Duties and cognate matters, are to be at liberty to express their views by *speech* and *vote*".

In this connection, I would also refer to the book of Mr. A. B. Keith —British Cabinet System—which has been edited only this year. On a similar matter, the learned author says,—"the theory of having joint responsibility is clear, but in practice there are relaxations. The most obvious is to leave certain issues *open* questions and this may be the only way to have an effective Ministry, for the time being leaving matters to ripen to a decision. Then he quotes the views of Lord

Hailsham, the Lord Chancellor. On a similar ground, he says that some *modification* of the usual Ministerial procedure is required and that Ministers who find themselves unable to support the conclusions arrived at by the majority of their colleagues on the subject of Import Duties and cognate matters are to be at liberty to express their views by speech and vote".

I think, no further reference to authority is required. It has now come to be recognised that on all important matters, the Cabinet has absolute right to allow particular Ministers to give expression to their individual and personal views. The Hon'ble Finance Minister at that time made it perfectly clear that those were his individual views. "Individual views" does not mean the views of Mr. Nalini Ranjan Sarker but of the Hon'ble Finance Minister. Therefore, I allowed him and shall allow in future other Hon'ble Ministers also to express their views in their individual capacity as Ministers, if they are permitted by the Cabinet to give expression to such views.

The Bengal General Clauses (Amendment) Bill, 1939.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I beg to move that the Bengal General Clauses (Amendment) Bill, 1939, be taken into consideration.

Mr. PRESIDENT: The question before the House is: that the Bengal General Clauses (Amendment) Bill, 1939, be taken into consideration.

Clause 2.

Mr. PRESIDENT: Clause 2 stand part of the Bill.

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I beg to move that in sub-clause (*2*) of clause 2 of the Bill, in the proposed sub-section (*35*), after the words "Government of India Act" in line 5, the comma and the figures ", 1919", be inserted.

Sir, the Government of India Act, 1919, is always cited as the Government of India Act, 1919, and not simply as the Government of India Act. So, without the addition of the figures "1919", the Government of India Act will be meaningless. Therefore, I move the amendment.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*2*) of clause 2 of the Bill in the proposed sub-section (*35*), after the words "Government of India Act" in line 5, the comma and the figures ", 1919", be inserted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose the amendment on the ground that the Government of India Act, 1919, is named as Government of India Act only. If the figures "1919" is now added, it will be superfluous. So, on the ground of superfluity, I oppose the motion.

Mr. PRESIDENT: The question before the House is that in sub-clause (*2*) of clause 2 of the Bill, in the proposed sub-section (*35*), after the words "Government of India Act" in line 5, the comma and the figures "1919", be inserted.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 2 stand part of the Bill.

(The motion was agreed to.)

Clause 3.

Mr. PRESIDENT: Clause 3 stand part of the Bill.

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I beg to move that in clause 3 of the Bill, in sub-section (*1*) of the proposed section 5A, after the words and inverted commas "Official Gazette" in lines 11 and 12, the word and inverted commas "Person" be inserted.

Sir, the word "Person" ought to be defined for the purpose of the Bengal Acts in view of the fact that a body of persons like the undivided Hindu joint family has been given certain rights and liabilities under the Bengal Money-lenders Bill.

Mr. PRESIDENT: Amendment moved: that in clause 3 of the Bill in sub-section (*1*) of the proposed section 5A, after the words and inverted commas "Official Gazette" in lines 11 and 12, the word and inverted commas "Person" be inserted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose this motion. The reason is this. Section 3 of the Bill reads as follows:—

After section 5A of the said Act the following section shall be inserted, viz.:—

"5A. (*1*) The definitions in section 3 of the General Clauses Act, 1897, of the expressions 'British India', 'Central Act', etc., etc., apply also, unless there is anything repugnant in the subject or context to all Bengal Acts".

It is clear, therefore, that the definitions in the Government of India Act apply to the Bengal Acts and consequently the definitions of words that are mentioned in clause 13 do not find any place in the Bengal Acts. What is really intended is that the definitions of all the expressions that are in the Government of India Act should apply to the Bengal Acts as well. As regards the term "Person", the definitions both in the Government of India Act as well as in the Bengal Act tally. So, if you say now that the definition should be amended in the Bengal Acts, the amendment falls to the ground at once because that is an entirely different matter. But the object of our Bill is that all those words in the General Clauses Act whose meaning cannot be found in the Bengal Acts but can be found in the Government of India Act, those words and their meanings, should apply to the Bengal Acts. That is all that is intended. But where the meaning is the same in both the Acts, no new provision need be made. If you want——

Mr. PRESIDENT: Order, order. I find in the General Clauses Act, 1897, the term "Person" has been defined.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Here, Sir, only those words of a general nature which have not been defined in the Bengal Act but have only been defined in the Government of India Act have been thought of, and they are now being declared to contain the very same meaning for Bengal also. That is all that we want. But so far as the word "person" is concerned, it appears in both the Acts.

Mr. PRESIDENT: I declare the amendment out of order, because it has already been defined.

The question before the House is that clause 3 stand part of the Bill.

(The motion was agreed to.)

Clause 4.

Mr. PRESIDENT: Clause 4 stand part of the Bill.

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I beg to move that in clause 4 of the Bill, in the proposed section 8A—

(*i*) after the word "repeals" in line 2, the words "or amends" be inserted, and

(*ii*) after the word "repeal" in line 7, the words "or amendment", be inserted.

Sir, this amendment seeks to protect amendments made by Acts which are subsequently not only repealed but also amended. This will save the amendments already embodied in Acts and have been in operation for some time.

Mr. PRESIDENT: Amendment moved: that in clause 4 of the Bill in the proposed section 8A—

(*i*) after the word "repeals" in line 2, the words "or amends" be inserted, and

(*ii*) after the word "repeal" in line 7, the words "or amendment", be inserted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, what is the principle that we are enunciating in this Bill? It is this: that if an amending Bill has amended certain main provisions of any existing law and when the amending Bill is repealed, the law as amended will stand. There is some doubt in the mind of many that if an amending Bill is repealed, with it goes all the labour and trouble that was expended for amending certain main Acts. Suppose, by an amending Bill certain provisions of the Penal Code have been amended. Now, that amending Bill is repealed. By the repeal of the amending Bill it may be construed that the amended Penal Code also goes. In order to make the thing clear we want really to establish a principle that if an amending Bill is repealed that will not take away all the amendments that were made to a substantive Act. But if you would say that a repeal of the amending Bill would not destroy the main provisions of the Original Act, I cannot understand what is meant by saying that when a Bill is amended, some change will take place. It is only when an amending Bill is repealed, that the question arises as to whether that repeal means the repeal of the main provisions of the original Act. We are establishing the principle by this legislation that even if an amending Bill is repealed, the amendment that has been effected in the original Act will not thereby be made inoperative. That is my point. So, I oppose this amendment.

Mr. PRESIDENT: The question before the House is: that in clause 4 of the Bill, in the proposed section 8A—

(*i*) after the word "repeals" in line 2, the words "or amends" be inserted, and

(*ii*) after the word "repeal" in line 7, the words "or amendment" be inserted.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 4 stand part of the Bill.

(The motion was agreed to.)

Clauses 5, 6 and 7.

Mr. PRESIDENT: Clauses 5, 6 and 7 stand part of the Bill.

Mr. PRESIDENT: The question before the House is: that clauses 5, 6 and 7 stand part of the Bill.

(The motion was agreed to.)

Clause 1.

Mr. PRESIDENT: Clause 1 stand part of the Bill.

Mr. PRESIDENT: The question before the House is: that clause 1 stand part of the Bill.

(The motion was agreed to.)

Title and Preamble.

Mr. PRESIDENT: Title and Preamble be added to the Bill.

Mr. PRESIDENT: The question before the House is: that the short title and preamble be added to the Bill.

(The motion was agreed to.)

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I beg to move that the Bengal General Clauses (Amendment) Bill, 1939, as settled in the Council, be passed.

Mr. PRESIDENT: Motion moved: that the Bengal General Clauses (Amendment) Bill, 1939, as settled in the Council, be passed.

The question before the House is: that the Bengal General Clauses (Amendment) Bill, 1939, as settled in the Council, be passed.

(The motion was agreed to.)

Discussion on the Report of the Committee on Public Accounts and Demands for Excess Grants.

Mr. PRESIDENT: We shall now take up the Report of the Committee on Public Accounts and demands for excess grants.

The Hon'ble Mr. NALINI RANJAN SARKAR: Sir, I have already presented it to the House. The House can now proceed with its discussion.

Mr. PRESIDENT: There are different kinds of procedure adopted in different countries for discussion of the Report of the Public Accounts Committee. In some places, the Finance Minister moves that the Report be taken into consideration. We have not established any convention as yet in this connection. So, I think we should follow the usual procedure of having a discussion with no motion being moved.

Dr. RADHA KUMUD MOOKERJI: What about the Supplementary Estimate?

Mr. PRESIDENT: It will come afterwards.

The House can now proceed with the discussion of the Report of the Committee on Public Accounts.

Mr. LALIT CHANDRA DAS: Mr. President, Sir, the Committee on Public Accounts had altogether ten sittings since 14th August last to examine the Appropriation Accounts and Finance Accounts of the year 1937-38 and the Audit Report of 1938 thereon. They satisfied themselves that the amounts shown in the accounts as having been disbursed were legally available for and applicable to the service or purpose to which they have been applied. They were grateful to Mr. Seshu Iyer, Accountant-General, and to Mr. Mukherji, Deputy Secretary, for having done their duty and for helping them in their deliberations.

And now, Sir, it is our turn to thank the hon'ble members of the Public Accounts Committee for their very lucid report and record our appreciation of their work.

Sir, there is one thing in the Report of the proceedings of their first meeting on the 14th August last, which strikes me as what they should not have done. It is the election of the Chairman of the Committee. Without meaning any disrespect to or for the capacity of the Hon'ble the Finance Minister, I desire to say that for the purpose of

creating a precedent or a healthy convention, he should have yielded the Chair to one of the members of the Opposition Group. As he himself admits this is the practice in England, even though business here is not conducted strictly according to the British practice. We do not know whether the question arose in the form that Dr. Sanyal raised in any one of the Congress provinces in the framing of their rules. But when the Bengal Legislative Assembly Rules do not make it obligatory to make the Finance Minister the Chairman of the Committee, the Finance Minister, of himself without allowing the matter to go to vote, should have come forward to create the convention as in Great Britain and put into the Chair of the Committee one of the Opposition members representing it, especially in view of the fact that Opposition members are not in the majority in the Legislature or in the Committee.

Sir, it would appear from the Report that the Stamp Revenue dropped by 20·30 lakhs during the year under review! It is admitted that this fall was due to the formation of Debt Conciliation Boards. We who live in mufassil can testify to what havoc those Boards have created in rural credit life of Bengal. They are unfit really to cope with the work entrusted to them and they know not how to dispose of their files. They are proving instead of Debt Conciliation Boards Debt-Wiping Boards. And if now Government suffer for want of revenue under the head "Stamp", Government are wholly and solely responsible for it. Instead of boldly declaring a moratorium they have stuck to this roundabout method even at the sacrifice of revenue for no other purpose than with an eye to future mass votes to keep them in office. Sir, if they really meant business and no humbugism, the work of conciliation of debts should have been entrusted to Munsifs, Depaties and Sub-Deputies and the very large body of trained lawyers whom a certain honorarium would induce to take up the work in any centre Government would select instead of leaving the task to those in the interior, who are supposed to have hold upon the people.

Sir, under "Irrigation and Civil Works", the Committee came across several schemes which could not be fully carried out owing to the delay in preparation of detailed estimates and the grant of sanction in time. This is highly to be deplored. I believe, those schemes have not yet been carried out. In urgent matters, the Minister in charge of the department promises works, prepares schemes and then postpones. In actual execution, the Minister finds himself in an awful mess. I will illustrate. Since the first session and down to the last, I and some other members of the Legislature both here as well as in the Lower House repeatedly drew the attention of the Hon'ble Minister to the urgent necessity of dealing with the Gumti Embankment in the district of Tippera. Government knew full well what havoc Gumti is

creating in Meherkul and Gangamandal by floods breaching the embankment. Promises were made that early steps would be taken. Engineers were at work. They produced schemes of escapes——

The Hon'ble Mr. NALINI RANJAN SARKER: Sir, is the hon'ble member entitled to make these remarks? The report is under consideration and not the actual action.

Mr. LALIT CHANDRA DAS: The Hon'ble Minister made criticism of the Irrigation Department and I am pointing out how the Irrigation Department deserves his criticism.

Mr. PRESIDENT: Is Mr. Das likely to take a long time over this?

Mr. LALIT CHANDRA DAS: No, Sir. I will not take a long time. I will say just one or two words.

It is noteworthy that establishment charges of the Irrigation and Civil Works Department are almost the equal of what has been spent for the Irrigation projects, Road Fund projects and buildings. The criticism levelled against the department by the Committee seems to me to be fair and proper. It is high time, the department shows greater expedition in the matter of the works which they plan and which are approved.

Sir, it is regrettable that there should have been any savings in works of nation-building subjects, such as Public Health, Medical and Industries. If the Ministers in charge of those departments are alert and active and know how to control and direct, it is quite possible to utilize the budget provisions under those heads without sacrificing efficiency in any way.

Lastly, I would say that it is in the fitness of things that the Committee should have drawn the attention of the Government to the necessity of drawing up rates for the purchase and distribution of stud bulls in different parts of Bengal. Along with the livestock, these bulls should play a great part in the economic development of the country.

Mr. PRESIDENT: Order, order. The Council stands adjourned till 2-15 p.m. on Wednesday, the 20th December.

Adjournment.

The Council then adjourned till 2-15 p.m. on Wednesday, the 20th December, 1939.

Members absent.

The following members were absent from the meeting held on the 19th of December, 1939:—

(1) Rai Bahadur Keshab Chandra Banerjee.
(2) Rai Bahadur Manmatha Nath Bose.
(3) Mr. Humayun Reza Chowdhury.
(4) Mr. Narendra Chandra Datta.
(5) Mr. Kamini Kumar Dutta.
(6) Khan Bahadur Alhaj Khwaja Muhammad Esmail.
(7) Khan Bahadur Saiyed Muazzamuddin Hosain.
(8) Alhaj Khan Bahadur Shaikh Muhammad Jan.
(9) Mr. Humayun Kabir.
(10) Maulana Muhammad Akram Khan.
(11) Mr. H. G. G. Mackay.
(12) Rai Bahadur Satis Chandra Mukherji.
(13) Mr. J. B. Ross.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Wednesday, the 20th December, 1939, at 2-15 p.m. being the fifteenth day of the Third Session, pursuant to section 62 (2) (a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

The Wardha Education Scheme.

84. Mr. LALIT CHANDRA DAS (on behalf of Mr. H. P. Poddar): (a) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether he is aware that the Basic Education Scheme, better known as Wardha Education Scheme, has been accepted by the All-India Advisory Board for Education, appointed by the Central Government?

(b) If so, will he kindly state if the Government of Bengal is prepared to introduce the scheme in Bengal at its earliest?

(c) If not, why not?

MINISTER in charge of the EDUCATION DEPARTMENT (the Hon'ble Mr. A. K. Fazlul Huq): (a) Yes. The main principle of education through activity has been accepted. The Board appointed a Committee to advise upon finance and other aspects of the case and the report of the Committee has not yet been discussed by the Board.

(b) and (c) The matter will be considered on receipt of the report of the Committee appointed by the Central Advisory Board of Education to examine the questions of finance, co-ordination and certain other matters arising out of the Wardha Education Scheme.

The establishment of a military college.

85. Mr. H. P. PODDAR: (a) Will the Hon'ble Minister in charge of the Education Department be pleased to state if it is a fact that he has recently advised the people of Ajmere to establish a military college at Ajmere; and that he has further promised them that he would formulate a scheme to raise necessary funds for the purpose?

(b) If so, will he kindly say if the necessity of establishing such a college in his own province has ever engaged his serious attention?

(c) If so, will he kindly state if he is going to formulate a scheme to raise funds for the purpose? If not, why not?

The Hon'ble Mr. A. K. FAZLUL HUQ: (a) The facts are not as stated.

(b) and (c) Do not arise.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state such facts as are within his knowledge?

The Hon'ble Mr. A. K. FAZLUL HUQ: In the course of a speech I did say that Ajmer appeared to me from various considerations to be a suitable place for the establishment of a Military College. I said nothing further. But I realise, if I may be permitted to add, that steps should be taken in that direction in Bengal. I fully admit that it is our duty to see if we could have a college in Bengal.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state if he is going to formulate a scheme for the establishment of a Military College in Bengal?

The Hon'ble Mr. A. K. FAZLUL HUQ: In answer to a question elsewhere, I have said that we are considering the question.

Mr. PRESIDENT: Order, order. The Hon'ble Sir Nazimuddin has informed me that he will be absent, so the questions numbering 86 and 87 which he is to answer are postponed till the 3rd of January, 1940.

The Khas Mahal of Chittagong.

88. Mr. NUR AHMED: (a) Will the Hon'ble Minister in charge of the Revenue Department be pleased to state if his attention has been drawn to the "Khas Mahal Report, 1938," submitted by Special Officer, Mr. M. M. Stuart, I.C.S.? If so, what steps has he taken up to this time and what further steps does he intend to take in order to give effect to those recommendations and suggestions of Mr. Stuart as contained in the aforesaid report?

(b) What are the main recommendations of Mr. Stuart as dealt with in the said report and which of them have been accepted by the Government of Bengal and which of them have they rejected and why?

(c) Have any measures been adopted by the Government of Bengal to prevent corruption amongst the *Khas Mahal* staff of Chittagong as mentioned in paragraph 82 of Mr. Stuart's report? If so, what are they? If not, why not?

(d) Have any steps been taken by the Government of Bengal to set apart areas in the foot-hills for free grazing of animals in Chittagong and to give effect to other suggestions of Mr. Stuart as embodied in paragraph 65 of that report? If so, what are they? If not, why not?

(e) Has the attention of the Hon'ble Minister been drawn to the remarks of Mr. Stuart in paragraph 37 of his said report as regards the hardship caused by the application of Sunset Law to arrears of *ryotari* rent?

(f) Is it a fact that Mr. Stuart has drawn urgent attention of Government to the abuse of the rules attached to this procedure?

(g) Has the Government of Bengal taken any measure to give effect to the suggestion of Mr. Stuart regarding this procedure? If not, why not?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar (on behalf of the Hon'ble Sir Bijoy Prasad Singh Roy): (a) and (b) Yes. A summary of the recommendations is laid on the table.

Action is being taken on some of these and the others are being examined.

(c) The report shows that corruption is small in extent and diminishing in volume: apart from revision of the settlement rules which is being undertaken, no special steps were recommended or seem to be required.

(d) No. The suggestions are being examined.

(e) Yes.

(f) He drew attention to their possible abuse.

(g) Orders have been issued that the law is to be administered as leniently as possible.

Statement referred to in the reply to clauses (a) and (b) of question No. 88.

SUMMARY OF RECOMMENDATIONS.

(1) RENT.

To be considered by the Land Revenue Commission. In the meantime Collectors may reduce where excessive applying one-sixth of produce rule, *vide* places mentioned in part I.

(2) COLLECTIONS.

Suggestions for modifying Certificate Procedure if re-imposed—

(*a*) *Organisation.*—Smaller *tehsils,* and large circles in charge of Sub-Deputy Collectors without any collection duties. They will be responsible for keeping down the number of certificates as well as expediting those actually filed in so far as crops allow. May be given magisterial powers in such places as Hatiya. Should work under Subdivisional Officers as regards rural reconstruction, etc. May be supplied with a special officer, *vide* 5.

(*b*) Costs to be reduced. Custody fees not normally to be charged.

(*c*) Appointment of leading tenants as honorary *tehsildars.* To be supplied with a list of defaulters. Rewards for settling case amicably.

(*d*) Circle Officers to be supplied with special process serving staff of assistant *nazirs.* Distress Warrants to be made effective.

(*e*) Sales normally not to be held for one year's rent.

(*f*) Division of holdings to be facilitated where not too small. Combination and amalgamation of holdings to be encouraged. Co-sharers may purchase in their own names.

Should, however, Certificate Procedure not to be re-imposed the following recommendations may be made:—

(*a*) It should be seen if the circles can generally coincide with *munsifs,* Government being moved if necessary to post *munsifs* in suitable places.

(*b*) Each circle will have its own full-time pleader. He will be bound to maintain registers which will be scrutinized by Circle Officer, and will report each step taken in cases. The pay should be sufficient to attract a more competent type.

(*c*) The number of *khas* purchases is likely to increase and the procedure for resettlement must be strengthened. After taking delivery of possession no rent should be received. Where default is due to co-sharers, attempt should be made to settle with one at moderate *salami. Bhag* cultivation not desirable.

(*d*) Owing to more cumbrous procedure filing of suits year by year may be impossible. To allow four years' rent to accrue, however, must be avoided. Filing of suit year by year is unlikely to benefit tenants. Suits may mostly be for two years' rent, and *munsif* may be asked to give time for payment in suitable cases.

(3) FRESH SETTLEMENT.

A real raiyatwari policy.—On the formation of a *char* the Collector shall consider how far there are local diluviated tenants who deserve consideration in getting settlement: then he shall consider diluviated tenants in other areas. If there remains land after that he should consider the case of over-populated areas in the neighbourhood: the sons of the *khas mahal* tenants who have only a small amount of land should be given preference particularly if the father guarantees the *salami*. If the *char* is of exceptional size "outsiders" may be considered particularly from neighbouring districts which have diluviated.

Lands should be shown to the tenants before settlement.

Salami should be reduced and made payable by instalments in case of diluviated tenants.

After three years there should be enquiry to see if houses have been constructed and ejectment suits will have to be brought if necessary to enforce this.

It may safely be said that there will always be new *chars* to settle in Noakhali and Bakarganj, but great care will always have to be taken to see that premature settlement is not made further; embankments should be constructed with great care and caution (*vide* my note about improvement).

(4) REMISSION.

(*a*) Special rules for areas which become unremunerative—*Dogi, Kosh, Dhal.* Holdings to be kept without assessment until recovery.

(*b*) Tauzi Chapter XIV to be modified for use in *khas mahals.* Ordinarily field to field enquiry not to be resorted to but so many annas remitted in areas effected.

(5) FACILITIES.

(*a*) Government to adopt more progressive loan policy in *khas mahals.* Agricultural loan work to be done through *Khas Mahal* Circle Officers. Short-term loans to be advanced and recovered with rent after crop. Special Officers working under Circle Officers may organise improvement works and act as loan officers. May have co-operative training.

(*b*) Grazing facilities to be extended particularly in Chittagong and new *chars.*

(c) Special study of conditions in Sundarbans by Irrigation Department, either by special appointment of officer or combination with other works. To be supplied with sufficient money to make experiments.

(d) Bigger allotment for improvement works.

The head-quarters of the district of Noakhali.

89. Mr. LALIT CHANDRA DAS (on behalf of Mr. Kamini Kumar Dutta): (a) Will the Hon'ble Minister in charge of the Revenue Department be pleased to state what steps have so far been taken for removing the head-quarters of the district of Noakhali to the newly-selected site at Begumganj?

(b) Is Government aware that people of the present town are suffering great inconvenience and hardship due to the delay of the transfer of the town?

(c) What amount has Government estimated under this head in the coming budget?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar (on behalf of the Hon'ble Sir Bijoy Prasad Singh Roy): (a) Government has not yet come to any final decision whether the headquarters of the district should be located at Begumganj or not.

(b) Yes.

(c) Does not arise in view of the answer to clause (a).

Improvement of the silk industry of Bengal.

90. Rai Bahadur S. N. SINHA: (a) Is the Hon'ble Minister in charge of the Industries Department aware that the silk industry is one of the most important industries of Bengal, especially in the districts of Murshidabad and Malda?

(b) Is it a fact that the industry is gradually declining in competition with foreign silk and silk cloths are gradually being deteriorated by the use of artificial silk by the weavers?

(c) Is the Hon'ble Minister aware that railway freight from Bengal to Bombay for silk is much higher than the silk imported from China or Japan to Bombay by ship; and that unless this tariff is altered, demand of Bengal silk in Bombay will gradually diminish?

(d) Is it a fact that even in Government Silk Weaving Schools in Serampore and Berhampore, foreign and artificial silks are allowed to be mixed up?

(*e*) Is there any proposal for the formation of a Silk Syndicate and Guild for the improvement of the existing silk industry under the consideration of the Government?

(*f*) If the answer to clause (*e*) be in the affirmative, when are the Government decisions on this matter expected?

(*g*) Will the Hon'ble Minister be pleased to state what steps the Government propose to take to protect and improve the silk industry?

(*h*) Will the Hon'ble Minister be pleased to state the names of the members of the Bengal Silk Committee and the function the Committee is required to perform and how the silk-producing districts are represented in the said Committee?

The Hon'ble Mr. H. S. SUHRAWARDY (on behalf of the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca): (*a*) Yes.

(*b*) The industry declined considerably as a result of the economic depression and severe competition by foreign silk. The industry, however, seems to be looking up now as a result of the endeavours of the department for its improvement. The use of artificial silk by silk weavers has to some extent been responsible for the deterioration of the indigenous silk cloth.

(*c*) Yes. The position was explained to the Tariff Board.

(*d*) No.

(*e*) and (*f*) The matter is under examination of the Bengal Industrial Survey Committee appointed by me and their report is being awaited.

(*g*) The department have been doing their utmost for the improvement of silk-rearing as well as silk-weaving. Researches for the improvement of silk-rearing are going on at Narayanpur Research Station, out of the Government of India grant for improvement and development of sericultural industry. Experiments are also being conducted at the various sericultural nurseries in the province. Training of the sons of rearers is being given at the sericultural schools attached to Berhampore and Piasbari nurseries and the training in reeling is being given at the Peddie Silk Reeling Institute, Malda. A silk-conditioning house at Howrah was established last year. The scheme for establishment of the Silk Technological Institute at Berhampore is now almost complete. Besides, I have, under consideration, new schemes for (1) a Sericultural Research Institute, (2) organisation for getting improved mulberry grown, (3) sericultural classes in village schools and (4) production and supply of disease-free seeds.

(*h*) A copy of the Government resolution No. 4751Ind., dated the 9th July, 1937, on the subject is placed on the Table. The function of the Committee is to advise the department regarding measures for the improvement of the industry.

Statement referred to in the reply to clause (h) of question No. 90.

GOVERNMENT OF BENGAL.

DEPARTMENT OF AGRICULTURE AND INDUSTRIES.

INDUSTRIES.

RESOLUTION No. 4751.

Calcutta, the 9th July, 1937.

The term of office of the members of the Bengal Silk Committee, as constituted under resolution No. 7198Ind., dated the 17th December, 1935, having expired, the Governor is now pleased to reconstitute the Committee as follows:—

(*a*) *Official members.*

1. The Director of Industries, Bengal—*President* (*ex-officio*).

2. The Deputy Director of Sericulture, Bengal—*Secretary* (*ex-officio*).

3. The Registrar of Co-operative Societies, Bengal.

4. The Collector of Malda.

5. The Collector of Murshidabad.

6. The Collector of Bankura.

7. Mr. A. N. Sen, Inspector of Technical and Industrial Institutions, Bengal.

(*b*) *Non-official members.*

1. Mr. J. deMinvielle of Messrs. Anderson Wright & Co., Plassey, Nadia.

2. Haji Moniruddin Ahmed, Jangipur, Murshidabad.

3. Babu Ashutosh Chowdhury, Zemindar and Chairman, District Board, Malda.

4. Khan Sahib Maulvi Abdul Ghani, Malda.

5. Khan Bahadur Maulvi Hafizur Rahman Chowdhury, Bogra.

6. Maulvi Md. Moslem Ali Molla, Rajshahi.

7. Rai Bahadur Abinash Chandra Banerjee, C.I.E., Birbhum.

8. Mr. I. G. H. Ariff, Silk Merchant and Millowner, Ultadingi, Calcutta.

9. Professor H. D. Mukerjee, Presidency College, Calcutta.

10. Babu Moni Mohan Bose, Silk Merchant, Khagra, Berhampore.

The members will hold office for a period of three years.

Order.—Ordered that the resolution be published in the *Calcutta Gazette* and that a copy of it be forwarded to the Director of Industries, Bengal, and the official and non-official members of the Committee.

(Sd.) H. S. E. STEVENS,

Secretary to the Government of Bengal.

N.B.—*Mr. Zahur Ahmed Chowdhury, M.L.A., Malda, has been appointed in place of Khan Bahadur Maulvi Hafizur Rahman Chowdhury, Bogra, deceased, *vide* Agriculture and Industries Department notification No. 4400, dated the 4th July, 1938.

The Road Development Fund.

91. Rai Sahib INDU BHUSAN SARKAR (on behalf of Mr. Moazzemali Chowdhury): (*a*) Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state—

(*i*) the total amount of money the Local Government received from the Road Development Fund of the Government of India since the creation of the Road Development Fund up to the 30th November, 1939; and

(*ii*) the total amount spent up to the 30th November, 1939, for the purpose of road development in Bengal, together with the figures of the different amounts spent in the different districts?

(*b*) Will the Hon'ble Minister be pleased to state whether his department has prepared a list of roads to be developed within the current and the next five winter seasons? If so, which roads in which districts have been included in that list?

(*c*) Will the Hon'ble Minister be pleased to state whether there is any amount of the Road Development Fund due to the Local Government but held up by the Government of India? If so, what are the reasons therefor?

(*d*) Will the Hon'ble Minister be pleased to state whether the Local Government have laid down any policy according to which selection is made of the roads to be developed every year? If so, what is that policy and who guides it?

(*e*) Will the Hon'ble Minister be pleased to state whether the district boards have any say in the matter of selection of roads for development in the different districts? If not, why not?

(*f*) Will the Hon'ble Minister be pleased to state the names of the roads recommended by the District Board of Faridpur for development in order of priority?

(*g*) Will the Hon'ble Minister be pleased to state when the road, the first in order as recommended by the District Board of Faridpur, is likely to be developed?

MINISTER in charge of the COMMUNICATIONS and WORKS DEPARTMENT (the Hon'ble Maharaja Srischandra Nandy, of Cossimbazar): (*a*) (*i*) Rs. 1,10,50,000.

(*ii*) Rs. 1,08,06,481 up to October, 1939.

	Rs.
24-Parganas	23,62,599
Jessore	13,41,616
Nadia	2,51,650
Murshidabad	4,629
Howrah	1,23,168
Hooghly	9,59,721
Burdwan	10,49,360
Birbhum	1,559
Midnapore	80,654
Chittagong	4,12,051
Tippera	8,01,811
Noakhali	126
Dacca	5,51,337
Mymensingh	6,70,207
Jalpaiguri	19,036
Dinajpur	3,404
Darjeeling	10,63,155
Pabna	9,46,763
	1,06,42,846
Pay of Special Officer, Road Fund Works, and his staff, cost of tools and plant, etc.	1,63,635
	1,08,06,481

(*b*) So far as the current year is concerned, attention is invited to pages 30-33 and 64-67 of the Provincial Civil Works Budget for 1939-40. A list of projects which it is proposed to take up next year will appear in the estimates which will be presented to the Legislature in due course.

(*c*) Yes, a sum of about Rs. 31,39,000 representing the allocations made to this province during 1937-38 and 1938-39 is held by the Government of India at the credit of the Provincial Government who had an adequate balance for their immediate requirements. That balance is now nearly exhausted and the Government of India have been asked to place at our disposal for expenditure during the current year Rs. 10,80,000 of the amount which they hold on our behalf.

(*d*) The policy of Government, who have had the benefit of the advice of the Provincial Board of Communications, is set out in a statement which is laid on the table.

(*e*) and (*f*) A reference is invited to Chapter XXII of Volume IV of Mr. King's report, copies of which have been sent to all members of the Legislature.

(*g*) As advised by the Provincial Board of Communications, I propose to recommend to the Government of India that the Faridpur-Bhanga Road should be improved at the expense of the Road Fund, if I am satisfied that the project is not likely to be prejudicial to agriculture and health of the public. I cannot say when work is likely to be begun until provision is made in the estimates and funds are voted for the purpose.

Statement referred to in the reply to clause (d) of question No. 91.

ROAD DEVELOPMENT POLICY.

I. Government should complete the road fund schemes now in progress and those for which provision has been made in the current year's Budget.

II. Government propose to take up as soon as possible a programme of constructing or improving to modern standards roads required for the transport of agricultural produce to suitable markets and roads which will serve as feeders to railway stations and steamer ghats.

III. Work should be spread over as many districts as possible.

IV. Government will have to have regard to the existence of other means of communications and the amount of traffic likely to be expected.

V. Due consideration will have to be given to areas already enjoying fairly satisfactory means of communication if there is a possibility of an increase of road traffic and a consequent increase of revenue from the petrol tax.

VI. Government's aim shoud be to do as much work as possible on roads which can ultimately be linked up into a system serving inter-district and provincial, and not merely local needs."

Rai Sahib INDU BHUSAN SARKER: With reference to answer (*g*), will the Hon'ble Minister in charge of Communications be pleased to state if there is any estimate prepared for repairing the Faridpur-Bhanga Road?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Rough estimates have been prepared by the Special Officer.

Rai Sahib INDU BHUSAN SARKER: May I know the amount of the estimate?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: I ask for notice.

The Burdwan-Hooghly-Howrah Flushing scheme.

92. Rai Sahib JATINDRA MOHAN SEN (on behalf of Rai Bahadur Satis Chandra Mukherjee): (*a*) Is the Government aware that a public meeting, which was attended by people of all castes and creeds and all shades of public opinion, was held at Chinsura on the 24th June, 1939, presided over by Mr. J. N. Basu, M.A., B.L., M.L.A., at which the desirability of the introduction of the Burdwan-Hooghly-Howrah Flushing scheme at an early date was discussed and resolutions were passed asking the Government to expedite the matter?

(*b*) Is the Government further aware that a deputation of representative men of the districts of Hooghly, Howrah and Burdwan waited on the Hon'ble Ministers in charge of Revenue and Communications and Works Departments after that meeting to press upon their attention the necessity of expediting the carrying out of the scheme into execution?

(*c*) Is the Government also aware that there is a keen and strong desire on the part of the people in the districts of Hooghly and Howrah for a speedy introduction of the scheme?

(*d*) Is the Government aware that the recent floods in the districts of Hooghly and Howrah have made the position worse and the position demands an early and immediate introduction of the scheme?

(*e*) Will the Government be pleased to inform the Council what steps have been taken by the Government in this matter?

(*f*) Does the Government intend, and if so when, to introduce a motion in the Assembly for carrying out the said scheme?

(*g*) Does the Government also intend to amend the Bengal Development Act XVI of 1935?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: (*a*) to (*d*) Yes.

(*e*) A scheme has been prepared and is now under the examination of Government.

(*f*) I hope to be in a position to obtain the views of the Legislative Assembly about the scheme some time next year.

(*g*) The question whether any amendment is necessary will be examined.

The electrification of the province of Bengal.

93. Mr. LALIT CHANDRA DAS: (*a*) Will the Hon'ble Minister in charge of the Commerce and Labour Department be pleased to state whether he is aware that the Government of Bihar has undertaken the project of electrification of the province of Bihar and with that end in view has appointed Mr. Fachnrich as the Electric Engineer who is working out the details of the scheme with Mr. S. K. P. Sinha?

(*b*) Is it a fact that the Hon'ble Finance Minister and the Hon'ble Mr. Suhrawardy promised a year ago that the Government would undertake the electrification of the province of Bengal as early as possible?

(*c*) Will the Hon'ble Minister be pleased to state what steps, if any, have been taken towards electrification of the province? If not, will the Hon'ble Minister state the reasons for not doing so yet?

(*d*) Do the Government propose to emulate the example of Bihar and take up the electrification of the province early for the progress of industries, trade and commerce of Bengal?

MINISTER in charge of the COMMERCE and LABOUR DEPARTMENT (the Hon'ble Mr. H. S. Suhrawardy): (*a*) Yes, I am aware of appointment of a special officer by the Government of Bihar to go into the question of electrification of the province.

(*b*) Yes, I made a statement to that effect on the floor of this House on the 8th February, 1938.

(*c*) Mr. S. W. Redclift, Electrical Adviser and Chief Electric Inspector, Bengal, was placed on special duty to prepare a preliminary report on the subject. His report has been received and is being considered by Government.

(*d*) The conditions in Bengal differ from those in other provinces and it is unwise to apply to Bengal any scheme which has proved successful in other parts of India without the fullest investigation. I understand that the scheme in Bihar is not making progress.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state whether he is prepared to place the report of Mr. S. W. Redclift, Electrical Adviser and Chief Electric Inspector, Bengal, on the Library Table for the information of the members of this House?

The Hon'ble Mr. H. S. SUHRAWARDY: I am considering the advisability of publishing that report for the information of the public.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state whether that report contains any scheme of electrification for the province of Bengal?

The Hon'ble Mr. H. S. SUHRAWARDY: It contains certain suggestions but it has not been possible for him to frame a scheme.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state whether he has considered the report?

The Hon'ble Mr. H. S. SUHRAWARDY: It is receiving consideration.

Employees of the civil courts.

94. Khan Bahadur ATAUR RAHMAN (on behalf of Khan Bahadur Saiyed Muazzamuddin Hosain): Will the Hon'ble Minister in charge of the Judicial Department kindly lay on the table a statement showing—

(*a*) the number of clerks, peons and orderlies employed in each district of Bengal in the civil courts including District Judge's office and Court; and

(*b*) the number of each class represented by different communities in each district?

MINISTER in charge of the JUDICIAL DEPARTMENT (the Hon'ble Nawab Musharruff Hossain, Khan Bahadur): A statement is laid in the Library.

Khan Bahadur ATAUR RAHMAN: May I draw the attention of the Hon'ble Minister to the fact that this House decided in the previous session that such statements should be laid on the Table of this House? But now I see that it has been laid on the Library table.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: If my friend wants to see it, I am quite prepared to show it to him from my file.

Khan Bahadur ATAUR RAHMAN: Then, we will lose the chance of putting supplementary questions. That is the main point.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: I do not think that the question is so important that any supplementary question is likely to arise.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: May I know if the statement will also be printed in the proceedings or if only the answer that has been read will only be printed?

Mr. PRESIDENT: Ordinarily, it will not be printed if a statement is placed on the Library table.

Jute and Paddy Enquiry Committees.

95. Mr. LALIT CHANDRA DAS: (*a*) Will the Hon'ble Minister in charge of the Agriculture Department be pleased to state when the two committees to investigate and report on the problems of jute and paddy were set up by the Government and when they began to sit and how many sittings they had so far?

(*b*) When are these two committees likely to finish their labours? Is there any time-limit for the same? If not, does the Government propose to fix a time-limit for them to finish their jobs? What has been the total expenditure so far on account of the members' allowances including travelling allowance etc., of the said committees?

(*c*) Is it a fact that paddy is grown in less acreage of lands in Bengal than would be necessary to make Bengal self-sufficient in the matter of supply of paddy for her own needs? If so, does Government propose to take early steps to ensure that Bengal may be self-sufficient in this direction by causing more lands to be brought under cultivation of paddy?

(*d*) Is Government aware that very great hardship is now being experienced by the agriculturists and poor middle-class *bhadraloks* in meeting their demands for paddy?

(*e*) What is the total tonnage of Burma rice that reached Chittagong Port alone this year? Is it a fact that but for Burma rice this year there would have been regular famine in some of the eastern districts of Bengal?

(*f*) Does Government propose to restrict by legislation without delay the cultivation of jute by raising the price of jute and also for releasing lands for cultivation of more paddy?

MINISTER in charge of the AGRICULTURE DEPARTMENT (the Hon'ble Mr. Tamizuddin Khan): (*a*) The two Committees were set up at the end of July, 1938, and they began to sit from the beginning of September. The Paddy and Rice Enquiry Committee and its sub-committees held 28 sittings and the Jute Enquiry Committee and its sub-committees held 27 sittings.

(*b*) Both the Committees have finished their labours and submitted their reports to Government. The question of fixing a time limit therefore does not arise. The expenditure incurred on account of travelling and daily allowances of members is as follows:—

(1) Paddy and Rice Enquiry Committee—Rs. 12,000 approximately.

(2) Jute Enquiry Committee—Rs. 9,500 approximately.

(*c*) The matter is being examined on the basis of the report of the Paddy and Rice Enquiry Committee, a copy of which is placed in the Library.

(*d*) No.

(*e*) The information regarding the tonnage of Burma rice imported to Chittagong this year is not readily available. There is no indication that but for this import of Burma rice there would have been a famine in some of the eastern districts of Bengal.

(*f*) With a view to securing a good price for jute I have introduced the Bengal Jute Regulation Bill, 1939, a copy of which, as it emerged from the Select Committee, is placed in the Library. The object of the Bill is to regulate, and not necessarily restrict, the cultivation of jute according to the demand and stock, etc. The principle of restricting the cultivation of jute for the purpose of extending paddy cultivation does not commend itself to me.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state whether the Bengal Jute Regulation Bill, 1939, was based on the report of the Jute Enquiry Committee?

The Hon'ble Mr. TAMIZUDDIN Khan: No, Sir. The report of the Jute Enquiry Committee was received only recently; long before that the proposal for introducing a Bill like that was formulated.

Mr. LALIT CHANDRA DAS: Do Government realise that by framing the Jute Regulation Bill without looking into the Report, Government had actually reduced the report of the Jute Enquiry Committee into a farce?

The Hon'ble Mr. TAMIZUDDIN KHAN: That is a question of opinion. I do not agree with that.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to fix a date for having a debate on the reports of the Jute and Paddy and Rice Enquiry Committees?

The Hon'ble Mr. TAMIZUDDIN KHAN: That does not seem to be necessary.

Mr. LALIT CHANDRA DAS: Was there any necessity for appointing a Committee and without going through its report to bring in a Bill for jute regulation like the one that has been referred to?

The Hon'ble Mr. TAMIZUDDIN KHAN: My friend is still travelling in the land of imagination. The problem of jute became very urgent and, therefore, Government could not wait for the report of the Jute Enquiry Committee. On account of the urgency of the situation, Government at first promulgated an Ordinance and later on introduced the Jute Regulation Bill.

Mr. LALIT CHANDRA DAS: Then, what was the urgency of appointing a Jute Enquiry Committee?

The Hon'ble Mr. TAMIZUDDIN KHAN: The Jute Enquiry Committee was appointed a long time ago. There was no question of urgency but it was a question of necessity. The Jute Enquiry Committee might have been appointed two or three months earlier or later but it was necessary to enquire into the various problems connected with jute.

Mr. LALIT CHANDRA DAS: What was the necessity of wasting a sum of Rs. 9,500 when a Bill like that was brought in without looking into the report of the Committee?

The Hon'ble Mr. TAMIZUDDIN KHAN: The honourable member has not still realised the situation. The Jute Enquiry Committee was instituted for the purpose of enquiring into problems connected with jute. But before the Committee could finish its enquiries, the problem became so very urgent that some measure was necessary to be taken up by Government and that measure was taken.

Levy of Pilgrim Tax on Railway Passengers.

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, in accordance with the provisions of sub-rule (2) of rule 95 of the Bengal Legislative Council Procedure Rules, 1939, I have the honour to place for the information of the Council the following statement regarding levy of a pilgrim tax on railway passengers travelling to Nabadwip that was passed by the House on the 9th February, 1939:—

The Government of India were addressed on the subject and they have intimated that they do not propose to take any action in pursuance of the resolution.

Report of the Committee on Public Accounts and demands for excess grants, 1937-38.

Mr. PRESIDENT: The House will now resume further discussion of the Report of the Committee on Public Accounts and demands for Excess grants, 1937-38.

Mr. NARESH NATH MOOKERJEE: On a point of order, Sir. The Hon'ble Finance Minister laid the report on the Table and in his absence, is it possible to take up the discussion to-day?

Mr. PRESIDENT: I have already held that the presence of the Hon'ble Finance Minister, whoever he may be at present, is essential for the discussion of the Public Accounts Committee report.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I am dealing with the matter at present.

Mr. PRESIDENT: The House may take note of the fact that the Hon'ble Mr. Suhrawardy is temporarily in charge of the Finance Department; so the discussion can continue.

Rai SURENDRA NARAYAN SINHA Bahadur: Mr. President, Sir, the report of the Committee on Public Accounts of the Government of Bengal for the year 1937-39 together with Audit Reports, 1938, have been presented to us. The form in which the report has been cast is a report to the Bengal Legislative Assembly with certain recommendations that certain formal grants and appropriations may be made. The Committee might have been more courteous if they had reported to the whole Legislature which discusses the budget. We are, Sir, sitting here as representatives of the Assembly and we are entitled to have a report on the working of the budget. So I do not see why the report should not be made to the Legislature as a whole, with appropriate recommendations for demands for grants and appropriations.

In paragraph 8, there is a complaint for lack of control which is neutralised by the remarks by the Accountant-General. I do not see why the complaint was made at all under the circumstances.

In paragraph 10, it is recommended that the provision for "Establishment" and "Tools" and "Plant" in the Irrigation Budget should not be distributed through the budget. Perhaps it is meant that they should not be scattered throughout the budget.

So far as recommendations in paragraph 13 for lump provisions are concerned, they should not be rigid.

In paragraph 14, the proper phrase at the end of the paragraph should be "for promoting efficiency".

With reference to paragraph 15, want of diligence in executing Irrigation Projects and Road Fund projects is on the verge of becoming unsatisfactory in public opinion.

In paragraph 19, the exigencies of finance call for a review of the whole position of formation of Debt Conciliation Boards.

In conclusion, I should like to recommend that the irrecoverable loans to ex-detenus for settling them in life should be written off at once.

Mr. NUR AHMED: Mr. President, Sir, I wish to make very few remarks on the report of the Public Accounts Committee.

In the first place, Sir, it is very difficult for a lay man like myself to speak about such a matter as Public Accounts. I admit that. But the facts are apparent on the face of the report. One fact that is very prominent is this, namely, the huge establishment charges under the head "Irrigation". They amount to 90 per cent. of the total provision, and it is admitted that in Bengal the area of irrigated land is the smallest as compared to other parts of India. It is very difficult for us to know from this report why such a high percentage of expenditure was incurred.

Sir, we receive some printed books containing estimates and other figures, and it is said that about a lakh of rupees is required for the printing of these books. We do not find any necessity for these books which, I believe, very few members of this House have the patience to go through. I would draw the attention of the Hon'ble Finance Minister to this aspect of the matter.

Another fact to which I should like to draw the attention of the Hon'ble Finance Minister is about the huge accumulation of loans under the head "Agricultural loans". From the report, it is not clear which loans are irrecoverable and which loans are realisable. I think,

Sir, that attempts should be made at once to change the procedure so that we may know which loans are irrecoverable and which loans are realisable.

On the whole, I must congratulate the first popular Government on the fact that the report of the Public Accounts Committee does not contain any damaging remarks, as such reports are generally found to do.

Rai Sahib INDU BHUSAN SARKAR: Sir, with regard to the report of the Committee on Public Accounts, I may mention a few points.

Under the head "Maintenance and Repairs" under the head "Irrigation" at page 30 of the report it was said that it was decided not to dredge the Lower Kumar River as the annual dredging did not produce any permanent result. With regard to this, I may say here that not only has it produced a permanent result but, on the other hand, it did some harm in the locality. The dredger on the Gopalganj subdivision which I personally saw really did a good deal of harm, because the banks were raised, and the neighbouring agricultural lands had no proper drainage and at one time the lands were overflooded thus causing damage to the detriment of the cultivators; and specially the dredger mentioned in annexure IV, namely, "Foyers" was purchased in 1906-07 at a cost of Rs. 9,20,400. I find from the table that the net amount subsequently written off was Rs. 7,62,974. The amount of Rs. 1,57,426 was deducted, and the recoveries on Capital Account—sale proceeds or hire as at end of 1937-38—were much higher. The remainder of Rs. 1,57,426 was also deducted leaving a balance of nil. May I know, Sir, whether this dredger "Foyers" was sold off or is still in stock? In the case of some other dredgers, I find that they are not in workable condition. The maintenance charges are very heavy with regard to the works actually done by them. I would like to draw the particular attention of Government as to whether these dredgers could be profitably utilized in other parts of the country. As far as the Lower Kumar River is concerned, I am of opinion that it did not do any fruitful work in the locality.

There is another point, Sir, which has already been raised by Mr. Nur Ahmed, namely, the loans to cultivators at page 3 of the report. It shows that the amount outstanding under the Agriculturists' Loans Act XII of 1884 was Rs. 11,02,743 and out of this the amount of overdue instalments of principal was Rs. 8,45,984. It is a deplorable condition because out of Rs. 11 lakhs, Rs. 8½ lakhs or so was only realised in time. At the time of distribution no proper step was taken. The Committee has expressed the desire that steps should be taken to ascertain the amount of doubtful assets in the balances. I am afraid that a huge percentage of this loan will have to be written off for want of proper scrutiny at the time of giving the loan.

Mr H. C. A. HUNTER: Mr. President, Sir, there are only two points on which I would like to make any comment in connection with this report. The first is under paragraph 15 on page 2, from which it appears that the terms of Public Works Department contracts apparently permit contractors to stop work if there is an unexpected rise in the cost of materials. I would ask the Hon'ble Minister to enlighten the House as to whether this is the usual clause in Public Works Department contracts and, if so, whether it is contemplated to make any alteration since it seems to me that a contract in those terms is rather of the nature of "Heads I lose and tails you win". If the price of materials increases, the contractor is at liberty to stop the work, whereas if the price goes down there is no information to show that the province benefits.

The second point to which I would like to invite attention is an entry under the heading of "Miscellaneous loans and advances" and I see there that Rs. 4,35,316 has been granted to ex-detenus and that nothing has apparently yet been recovered from them. I gather that there was a certain amount of doubt as to whether these loans were gifts and I think it would be advisable for the House to be enlightened on this matter also. I think that the Finance Minister himself held that they were loans but that there was a very small prospect of recovery. I understand that these loans were advanced to buy equipment and machinery for ex-detenus to start work on their own. Might we be enlightened as to whether any portions of the loans have been recovered or is it likely that they will be recovered or is it likely that ultimately they will be productive and, if so, in what time?

Dr. RADHA KUMUD MOOKERJI: Sir, we are meeting under conditions which do not encourage any very detailed consideration of the report submitted by the Committee on Public Accounts. Nevertheless, I wish to draw the attention of the House to two or three points of very great importance to administration. The first point that emerges out of this report is that certain departments of Government are guilty of slackness in not being able to expend the money that has been already voted. In some cases, the reason advanced is that there are no detailed schemes ready, with the help of which the expenditure that had been voted could be fully incurred. In the second place, there are departments which are very, very lax and slow such as the department which is concerned with irrigation projects and roads. Every year, we feel that much valuable money lies unspent on account of the difficulties in the way of carrying through schemes of development as regards roads and transport facilities.

Now, Sir, the next point to be considered is that while on the one hand there is a picture of slackness in the matter of expenditure of

monies that are voted, on the other hand there is the picture of excesses of expenditure incurred without proper authority. On this subject, I believe that the Government must know the latest interpretation and ruling given by no less a person than the Secretary of State who has laid down definitely in one of his communications on the subject that on no account should excess expenditure be incurred without reference to the proper authority, viz., the Assembly, or if I may say so, the Legislature. This is not a matter that could be simply thrust upon the Legislature as if it is an accomplished fact. Now, the procedure is entirely unconstitutional and it is fraught with great dangers to the public finance of this province.

Grant No. 27 shows the extent of the guilt under this head. The sum of Rs. 68,302 is being put down as excess expenditure. Although, of course, explanations are always forthcoming in abundance, I only want to draw the attention of the Council to the question of procedure and on that subject I think the Government must take more care, so that they may conform to strict constitutional procedure instead of merely reporting that they have had, owing to certain unavoidable circumstances, to incur expenditure in excess of what was authorised. I give you, therefore, two very different pictures. On the one hand, there is the picture of slackness on the part of certain departments who are unable to spend the monies that are so liberally granted and on the other hand there is the picture of incurring excess expenditure specially on the charged side. Even on the votable side, we have in the matter of superannuation allowances and pensions considerable amount of excess expenditure shown. I do not really understand the reason why amounts of expenditure were not properly estimated beforehand.

My third point is a very petty point, but it concerns a vital matter. I will give you one case. On page 12, under grant No. 3 "Stamps", I find that a clerk who was supposed to have been guilty of defalcation was departmentally dealt with and dismissed but when the Government started a criminal prosecution, the prosecution failed and the clerk was acquitted. If so, I ask the Government in all seriousness whether it is really equitable that they should brush aside the judgment of a court of law. If he is really acquitted of all guilt, I don't see why he should not be automatically reinstated. Well, this is a matter which affects the entire prospect of an individual and I suppose a big Government can afford to be generous where individual cases are concerned. As I told you at the beginning, the atmosphere of the House is not very congenial to any serious discussion of either this report of the Committee on Pubic Accounts or of the Supplementary Estimate. In this unreal atmosphere, I feel that I have nothing more to add to what I have stated.

Khan Bahadur ATAUR RAHMAN: Sir, I beg to say a few words on this very particular subject. I would not have stood up to speak if the Hon'ble Maharaja Srischandra Nandy was not present here. This is only to draw his attention, rather than the attention of the Finance Minister, regarding the road work. I saw a road from Calcutta to Krishnagar in 1936. It was under construction then. Only recently I saw it and it still continued to remain with blocks in many places. The drivers and travellers have to get down to remove the block and then to pass the car or walk over. I think that this work should be expedited. It is nearly 3 years or rather more than 3 years that have passed since the commencement of the work and it is not yet completed. I find that members of the Public Accounts Committee have also noticed that works are being very much delayed for want of detailed estimates and receipt of sanction. Probably this work was sanctioned long ago and it should not be delayed any further.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, it is pleasant to find that in spite of the attempts that have been made by hon'ble members from various parts of the House to find something to criticise, they have not been able to discover very much which calls for any reply. Sir, if I may say one word before I deal with some matters raised, regarding the speech of Rai Bahadur Surendra Narayan Sinha, he seems to think that the members of the Committee on Public Accounts have been discourteous in so far as they have referred only to the Assembly for its vote and not to the Council. I would like to point out that there has not been the slightest desire on the part of the Committee to be discourteous to this House. But the Committee were well aware that although their report would be the subject-matter of discussion in this House, they would really be stultifying themselves had they stated in their report that the excess expenditure should be regularised by a vote of the Legislative Assembly and the Council. I can assure the hon'ble member that there has been no intention on the part of the Committee to be discourteous to this House.

Coming to the statements from various parts of the House, we have heard that the loans granted to ex-detenus should be reconsidered and if they are not recoverable, they should be written off. That is exactly our policy, and we are constantly, as a matter of fact, overhauling these loans for the purpose of ascertaining what are recoverable and what should be written off. In the case of agricultural loans similarly, we have allowed the figure to grow because what may be irrecoverable in one year on account of bad crops may be recoverable in the following year, and this year we are hoping that much of the agricultural loans which have not hitherto been recoverable, will be recoverable on account of fairly high prices which the agriculturists are getting for their commodities. Regarding loans to ex-detenus, we still choose

to consider them as loans. But there is not the least doubt about it that when the Government advanced those loans, they did not do so on strict business lines or as a business proposition. They advanced these loans to ex-detenus whom they had trained in certain industries in the hope that they would be in a position to settle down and become useful members of the society and therefore apart from mere advancing of loans to certain persons, Government advanced them for what may be called social welfare. I do agree with Mr. Hunter that so far as these loans are concerned, we should overhaul them once more and not burden our records by treating them as loans when there is no chance of their recovery.

Sir, another member wished to know whether the "Foyers" had been sold or what had happened to it. The "Foyers" is very much in existence; it has not disappeared merely because we have not given any capital value to it. It has paid its way, it has been a very good dredger, and it has a large number of recoveries to its credit. The result of it is that although the dredger is in existence, though not as useful as it was obviously when it first started its career, it has paid its way and it may be considered for what it is worth to be an asset in the hands of the Government of Bengal.

Sir, it is true that the percentage of the cost of establishment in the Irrigation Department is considerably higher than in other establishments where there is a great deal of other expenditures.

Rai Sahib INDU BHUSAN SARKAR: On a point of information, Sir. As regards the "Foyers", the remark is nil. What does it indicate?

The Hon'ble Mr. H. S. SUHRAWARDY: It was paid off. The "Foyers" is in existence but there is no capital account because its capital account has been balanced by the depreciation and by the recoveries and consequently so far as the account itself is concerned, namely, the net capital as at the end of 1937-38, we have marked it as nil, although it is still in existence and if sold may yield something to the Government of Bengal.

Sir, the Irrigation Department has laboured under great disabilities all these years. It is a very important department—there cannot be any doubt about it—and in our humble opinion, it is one of the most important departments if it gets going. But it has not been permitted to get going. It has not even been permitted to collect those data which are necessary for any big scientific project. The department, ever since it has been in the portfolio of my Hon'ble colleague, the Maharaja of Cossimbazar, has started to collect facts and figures and data and for this purpose it has been necessary to appoint officers. These data are being collected as rapidly as possible and projects for

which all of us have been longing are now on the anvil. We hope that in course of time we will be able to turn out such projects as will be necessary for the development of this province. I hope, at the same time, that when this is done, honourable members will not be alarmed or appalled at the cost which these projects are likely to entail because as is well-known, irrigation projects of this type—if they are to be worthwhile—have to be very costly indeed. Of course, as soon as the cost of work is added on to the irrigation projects, the percentage spent on staff will be automatically reduced.

Mr. Hunter spoke of a clause in certain Public Works Department contracts to the effect that if for any unforeseen cause, the value of materials rises, the contractor is able to stop work. Now, Sir, the fact is that there are certain rate contracts which are not to be completed within a certain time and which do not stipulate that the work should be completed within a fixed period of time. In some cases, these rate contracts are useful but in pursuance of the recommendation of the Public Accounts Committee, Government are considering the modification of this kind of contracts and we hope that any difficulty on this score will be overcome by the next time that we meet in this House.

Now, Sir, Dr. Radha Kumud Mookerji has racked his brain in order to find out something to say. It is not necessary always that the honourable the Deputy Leader of the Opposition should say something when he has nothing to say worthwhile, because we are only too eager to listen to his criticisms and to try to meet them. Therefore, if I may humbly suggest, the honourable member should enlighten us with such criticisms only when he finds that he has something really worthwhile to say. For instance, the honourable member has to-day turned round and charged Government with having spent excessive amount because Superannuation Allowances and Pensions happen to exceed by Rs. 68,302. Now this statement, if properly appraised, would imply that Dr. Mookerjee was only fishing for something to say. This excessive expenditure represents only 9 per cent., as Dr. Mookerjee has seen in the report, of the total grant. It is absolutely impossible for anyone to say how much would be required in the matter of allowances and pensions and how many will go away. We can only make a forecast and I think, if I may say so with great respect to the Hon'ble Finance Minister who placed the budget before the House, that it has been a remarkably good forecast that at the end of the year, with such uncertain factors as Superannuation Allowances and Pensions—because it is open to persons to take pension not necessarily at the end of their career but between certain periods of time—which change from month to month, the figure is only out by 9 per cent.——

Dr. RADHA KUMUD MOOKERJI: Sir, my point of contention referred only to procedure and nothing else.

Mr. PRESIDENT: I think, your point was that it was not covered by a supplementary grant.

The Hon'ble Mr. H. S. SUHRAWARDY: I see the point.

Dr. RADHA KUMUD MOOKERJI: You should have followed me with more attention.

The Hon'ble Mr. H. S. SUHRAWARDY: Even in that event, as this is fluctuating from month to month, the only thing possible would have been to bring in a supplementary grant at the end of the financial year which we found impossible to do.

Now, Sir, I do, however, think that there is some force in the criticism of Dr. Mookerji on the question that some of the departments have not been able to spend the money which have been allotted to them. This has been taken note of by the Committee on Public Accounts. Government as a whole are trying their best to see that items are not put in in the budget in regard to which there have not been a complete and detailed scheme. This, I would only point out in extenuation, was the first year of this Government in power and secondly that at that time there were hardly any schemes in operation. We were most anxious that we should put through certain schemes and secondly, in our eagerness to provide for them, we inserted certain schemes in the budget for which the public in Bengal have been crying for some considerable time and which had not been taken due note of by the previous Governments in power, with the result that there were no ready files on the subject from which we could have a detailed information. This was the reason for this lapse, although we had tried our level best to spend the money which had been allotted to us.

Dr. RADHA KUMUD MOOKERJI: What about that individual case of acquittal at page 12?

The Hon'ble Mr. H. S. SUHRAWARDY: With regard to the case of acquittal, it hardly arises, if I may say so, from a report of the Committee on Public Accounts. It is not always that when a person is acquitted, he is innocent and if I may say so from what little experience I have of our Courts that it is not always that a person who is convicted is guilty (laughter)——

Mr. SRISH CHANDRA CHAKRAVERTI: You are condemning your own judiciary!

Mr. RANAJIT PAL CHOUDHURY: And *vice versa*!

Dr. RADHA KUMUD MOOKERJI: My point was that Government might kindly consider this point.

Mr. PRESIDENT: The only point was that it was not a case of discharge but acquittal.

The Hon'ble Mr. H. S. SUHRAWARDY: It was a case of acquittal and if Dr. Mookerjee wishes that we should look into this case, we shall do so.

Dr. RADHA KUMUD MOOKERJI: Thank you.

Discussion on the Supplementary Estimate of Expenditure for 1939-40.

Rai SURENDRA NARAYAN SINHA Bahadur: Mr. President, Sir, it has almost become a custom on the part of the Finance Department of the Government of Bengal to bring in supplementary budgets. So, the present budget also seems to have come as a matter of course. The amount for which the demand has been made is not also unusual. But the different items call for some remarks.

The first demand for grant is for establishment charges for three and a half months of the staff for collection of taxes under the Bengal Finance Act, 1938. On the same scale the amount of annual charges would be nearly 80 thousand rupees. We do not know what amount of taxes will be collected and what will be the percentage of collection charges for that. I hope that the Hon'ble Finance Minister will try to reduce the expenses as far as possible.

The second demand is for charges for preparation of record of lands for cultivable *jote* lands. It is in consonance with modern principles of production to relate production to probable demand but the war situation will create an anomalous demand which is very difficult to regulate with reference to supplies. The estimate too seems to be high. Moreover it is time to reconsider the question of imposing regulation to restrict jute cultivation where poor cultivators and jute-growers are getting some money by selling jute due to rise of price for war condition. So far as famine relief is concerned, I have direct knowledge and I appreciate Government's benevolence. People of my district are thankful to Government for the relief granted.

Lastly, the item of Loan and Advances to cultivators is the most important grant demanded and appropriated in this budget. The natural credit of the country side has dried up owing to the administration of Agricultural Debtors Act and for other circumstances. So cash credit should be given by the Government in some form or other. In my opinion, the amount demanded should have been more to meet

the requirements of the agriculturists. In this connection, I like to say for the information of the House as I have experience of mufassal that in cases of distribution of agricultural loan, proper enquiries were not made. It has so happened that some of the deserving cases have been deprived of; in some cases proper scrutiny has not been made whereas in places members of one family have got money in different names. These are the few comments which I like to make.

Dr. RADHA KUMUD MOOKERJI: Sir, I wish to speak on the subject of grant No. 29. The Government statement is that the conditions of quarters for Government House servants in Calcutta have become so bad that immediate reconstruction is necessary. I wish to say to Government that the condition of the members of this Council has become so intolerable for want of proper accommodation that there has cropped up a question of grave constitutional importance. I think Sir, that the subject I am raising under the cover of Civil Works grant is a subject which affects fundamentally not merely the privileges of this House but also the conditions of its working properly in an efficient manner. We have been talking about a possible building for the Council. I believe that some time ago there was a large measure of agreement that the Council should have some kind of separate accommodation. Of course, we are not at all committed to any costly scheme of building so far as the Upper House is concerned. But I wish to say that the Government are pursuing a policy which is most uneconomical and I think very, very unfavourable to the smooth working of both Houses of the Legislature, if I may say so. Now, if you consider the realities of the situation, you will find that we are asked to meet sometimes at 2 p.m. at the sweet will of the personalities in another place, and sometimes at 2-15 p.m. Then, there is a terror of time-limit upon the whole House. There is, of course, a terror of time-limit for each individual speaker but the whole House also is under the terror of time-limit. Well, there is a time-limit which cannot be exceeded by any means. Why? Because there is another party waiting to take possession of this House. The result is that both Houses of the Legislature are not working according to the proper measure of time for such work. Now what are we doing here? For three years we have been working——

Mr. PRESIDENT: Order, order. I do not like to interrupt the hon'ble member, but I think that his observations on the Supplementary Estimate do not seem to be quite relevant.

Dr. RADHA KUMUD MOOKERJI: But the point on which I was speaking was this. Even in the Supplementary Estimate there is no step taken towards the removal of something which is very, very urgent

from the point of view of this House. Government might have thought it wise even now to stop the huge expenditure of public money that results from the working of both Houses of the Legislature within restricted times and hours. If this House had been able to work 4 hours a day and the other House had been able to work for more hours a day——

Mr. PRESIDENT: Order, order. On a Supplementary Estimate, you can speak on matters which cause further expenditure. You cannot suggest that there should be further expenditure on other matters. It is not relevant.

Dr. RADHA KUMUD MOOKERJI: I was just trying to show that there had been a great omission. I thought that it was a very useful point of order to raise. I shall finish by adding one sentence. Government have already lost a sum of Rs. 4 lakhs by having to pay more to the members attending the Legislature than they would otherwise have paid if there had been a separate accommodation where the two Houses could deliberate separately.

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: What would the Ministers do in that case?

Dr. RADHA KUMUD MOOKERJI: My objection is this. On what basis do you think that the quarters for Government House servants are more important than the quarters for the Legislative Council?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: That is a charge.

Mr. PRESIDENT: The House will rise a little earlier to-day because it has been arranged that there will be a formal meeting of the members of both the Chambers to consider the question of starting a branch of the Empire Parliamentary Association in Bengal. The discussion will be resumed to-morrow.

I adjourn the Council till 2-15 p.m. to-morrow.

Adjournment.

The Council then adjourned till 2-15 p.m. on Thursday, the 21st December, 1939.

Members absent.

The following members were absent from the meeting held on the 20th December, 1939:—

(1) Khan Bahadur Naziruddin Ahmad.
(2) Rai Bahadur Keshab Chandra Banerjee.
(3) Rai Bahadur Manmatha Nath Bose.
(4) Mr. Humayun Reza Chowdhury.
(5) Mr. Narendra Chandra Datta.
(6) Mr. Kamini Kumar Dutta.
(7) Khan Bahadur S. Fazal Ellahi.
(8) Khan Bahadur Alhaj Khwaja Muhammad Esmail.
(9) Khan Bahadur Saiyed Muazzamuddin Hosain.
(10) Alhaj Khan Bahadur Shaikh Muhammad Jan.
(11) Mr. Humayun Kabir.
(12) Khan Bahadur Muhammad Asaf Khan.
(13) Maulana Muhammad Akram Khan.
(14) Mr. H. G. G. Mackay.
(15) Rai Bahadur Satis Chandra Mukherji.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Thursday, the 21st December, 1939, at 2-15 p.m. being the sixteenth day of the Third Session, pursuant to section 62(2)(a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Preference to foreign degree and diploma holders.

96. Dr. RADHA KUMUD MOOKERJI (on behalf of Mr. H. P. Poddar): (a) Will the Hon'ble Minister in charge of the Education Department be pleased to state if it is the policy of the Government, so far as the Educational services are concerned, to give preference to foreign degree and diploma holders in matters of appointment, promotion and supersession even in cases where technical qualification is not at issue?

(b) Is the Government aware of the fact—

(i) that ordinary foreign degrees, *e.g.*, B.A., B.Sc., M.A., M.Sc., Ph.D., etc., are not higher or superior to the same degrees of the Calcutta University;

(ii) that affluent persons merely to take advantage of the Government's policy of preferring foreign degrees, more often than not, make a short sojourn to any foreign country, secure foreign degrees, come back and supersede the claims of many a senior or able man whose only demerit is that they have no foreign qualifications; and

(iii) that such a state of things has long indeed been telling heavily on the *morale* of the teachers and professors in the Education Department?

(c) If the Government are aware of the above facts, what steps does the Government contemplate to take so as to put the matter right?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK (on behalf of the Hon'ble Mr. A. K. Fazlul Huq): (a) This is not so, but if those who hold British Degrees or Diplomas are, on examination of the relative claims of candidates, considered to be superior, they receive preference.

(b) I have no such information.

(c) Does not arise.

Mr. LALIT CHANDRA DAS: Arising out of answer (*b*), will the Hon'ble Minister be pleased to state whether any attempt was made to get the information if ordinary foreign degrees, e.g., B.A., B.Sc., M.A., M.Sc., Ph.D. etc., are superior to the same degrees of the Calcutta University?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: The question was of such an indefinite character that it was not possible to make any enquiry.

Mr. LALIT CHANDRA DAS: Was any attempt made to get information as to whether the ordinary foreign degrees, e.g., B.A., B.Sc., M.A., M.Sc., Ph.D. etc., are not higher or superior to the same degrees of the Calcutta University and further whether any attempt was made by the Hon'ble Minister by corresponding with the authorities of the Calcutta University to obtain such information?

The Hon'ble Mr. MUKUNDA BEHARY MILLICK: The Calcutta University was not consulted as it was not considered necessary.

The establishment of girls' high English school in Faridpur.

97. Rai Sahib INDU BHUSAN SARKER: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state when a full-fledged girls' high English school is going to be established in Faridpur district town?

(*b*) Is he aware that for want of such a school much inconvenience is felt by the school-going girls?

(*c*) Is it the declared policy of the Government to establish a girls' high English school at headquarters of the districts?

(*d*) Has the Hon'ble Minister considered if the status of the present Government girls' middle English school can be conveniently raised into a girls' high English school and is it a fact that the said school is centrally situated?

(*e*) Has any amount been allotted for the proposed school? If so, how much?

(*f*) When does the Hon'ble Minister expect the scheme to be completed?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK (on behalf of the Hon'ble Mr. A. K. Fazlul Huq): (*a*) A scheme for raising the status of the Faridpur girls' middle English school to that of a high English school is under the consideration of Government.

(*b*) and (*c*) Yes.

(*d*) Does not arise in view of the reply to (*a*).

(*e*) No.

(*f*) I am unable to say definitely.

Rai Sahib INDU BHUSAN SARKER: With reference to answer (*a*), it has been stated that the scheme is under the consideration of Government for about two years. Will the Hon'ble Minister be pleased to state how long it will be necessary to have the scheme completed?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: As has been already indicated, it is very difficult to give a definite answer to that question.

Rai Sahib INDU BHUSAN SARKER: Arising out of paragraph (*f*), the answer is "I am unable to say definitely". People have been experiencing very much inconvenience owing to the absence of a full-fledged girls' high English school in Faridpur town. Will the Hon'ble Minister be pleased to state how long they will have to wait for it?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: The position has been made clear by the answer, viz., that the matter is receiving Government's consideration. But when it will actually mature, it is very difficult for anybody to say.

Rai Sahib INDU BHUSAN SARKER: Arising out of paragraph (*e*), I asked the question—"Has any amount been allotted for the proposed school" and the answer is "No". Will the Hon'ble Minister be pleased to state how are we to know when the school is going to be established in pursuance of the declared policy of Government that in every district headquarters a full-fledged girls' school will be established?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: If that is the declared policy, as the honourable member has said, it is only necessary for the scheme to be made ready before any sum can be allotted. Unless and until that is done, it is very difficult to allot any money and I am sure, it will not receive the sanction of the House.

Rai Sahib INDU BHUSAN SARKER: Will the Hon'ble Minister allot some money in the next budget?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: That also is not possible to say at this stage.

Dr. RADHA KUMUD MOOKERJI: Arising out of paragraph (*a*), when the scheme is only to raise a Middle English School to the status of a High English School, why should Government take more than two years' time even to say whether that scheme will materialise in the near future?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: It might appear simple to the honourable member but it is not so simple when it comes to be examined for the purpose of putting the scheme into actual shape. Therefore, it has taken time and must take some time before it can be completed.

Dr. RADHA KUMUD MOOKERJI: Arising out of answer (*f*), may we have some idea as to when the Hon'ble Minister expects the scheme to materialise considering that the scheme is simply to raise a Middle English School to the status of a High English School?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: After the answer that I have given, I am sorry I cannot add anything more.

Private maternity houses under the municipal authorities.

98. Mr. RANAJIT PAL CHOWDHURY: (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state whether the Government is aware that section 396 of the Bengal Municipal Act, 1932, is quite inadequate to control and guard private maternity houses by the municipal authorities?

(*b*) Is the Government aware that such a handicap is causing a menace to public health and society?

(*c*) Is it a fact that for want of proper control over private maternity houses, the roll of infant mortality is on the increase?

(*d*) Is the Government aware that many illegitimate babies lie uncared for as the mothers leave them soon after their birth at the mercy of unscrupulous proprietors of the maternity homes?

(*e*) Does the Government propose to amend section 396 of the Bengal Municipal Act by empowering local municipalities to compel private maternity homes to take out licences and keep proper registers?

The Hon'ble Mr. MUKUNDA BEHAY MULLICK (on behalf of the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca): (*a*) Section 396 of the Bengal Municipal Act which confers certain rule-making powers on the Local Government in regard to child welfare, maternity cases, sanitary inspection of schools and colleges and medical

inspection of school-going children, is not intended to control and supervise private maternity homes.

(*b*) to (*d*) Government has no definite information.

(*e*) The question of further amendment of the Bengal Municipal Act, 1932, is under examination and the point raised by the honourable member has been noted for consideration.

Mr. RANAJIT PAL CHOUDHURY: With reference to answers (*b*) to (*d*), will the Hon'ble Minister in charge of the department please make enquiries to get definite information?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: If it is so intended, Government will be prepared to look into the matter.

Flood in the subdivisions of Chatal, Midnapore Sadar and Tamluk.

99. Rai Sahib INDU BHUSAN SARKER (on behalf of Rai Bahadur Manmathanath Bose): (*a*) Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state if he is aware of the fact that huge tracts of land in the subdivisions of Ghatal, Midnapore Sadar and Tamluk, have been flooded this year, damaging the entire paddy crops of these areas?

(*b*) What is the area of the damaged tracts in each subdivision?

(*c*) Will the Hon'ble Minister be pleased to state the reasons why several areas in Sadar, Tamluk, Contai and Ghatal subdivisions in the district of Midnapore, especially the areas in the Ghatal subdivision are flooded almost every year resulting in loss of crops, cattle and human life?

(*d*) Has the Hon'ble Minister examined how these damages can be prevented?

(*e*) Is the Hon'ble Minister aware that several embankments in the Ghatal subdivision are being abandoned every year?

(*f*) Is the Hon'ble Minister aware that long after abandoning the embankment, the Public Works Department asked the Embankment Committee at Midnapore to sanction the abandonment which had already been effected? Did the Embankment Committee through the District Magistrate make any representation to the Government? If so, will the Hon'ble Minister kindly lay a copy of the same on the Table? What steps has he taken on the same?

(*g*) Will the Hon'ble Minister be pleased to state if any comprehensive schemes have been prepared by the Special Officer? If so, what steps does he intend to take for bridging the river Silai which bifurcates the Ghatal town?

MINISTER in charge of the COMMUNICATIONS and WORKS DEPARTMENT (the Hon'ble Maharaja Srischandra Nandy, of Cossimbazar): (*a*) There was extensive flooding in the area and considerable damage was done to standing crops.

		Square miles.
(*b*) Ghatal	...	200
Sadar (North)	...	16
Sadar (South)	...	65
Tamluk	...	100

(*c*) The rivers Cossye, Selye, Darkeswar and Rupnarayan have not sufficient capacity to carry the discharge from the catchment areas of the first three rivers and premature human interference has curtailed considerably their spilling area.

(*d*) Various schemes have been investigated by experts from time to time but no feasible solution at a reasonable cost has been found.

(*e*) No work is done in any year on the maintenance of embankments which have been excluded by notification from Schedule D of the Embankment Act.

(*f*) I have not been able to trace any papers. I will make an enquiry if the hon'ble member will give me further details.

(*g*) The answer to the first part of the question is in the affirmative. A road running east and west through Ghatal has been suggested in the comprehensive scheme, but in view of the large number of projects already sanctioned which are likely to absorb all the funds that can be made available during the next few years, it is not intended to make any survey at present.

Mr. PRESIDENT: It has been brought to my notice that the Hon'ble Mr. Suhrawardy will be a little late to-day. So, I will put off questions Nos. 100 to 102 for the present.

The Gariahata illicit distillation case.

103. Khan Bahadur ATAUR RAHMAN: (*a*) Will the Hon'ble Minister in charge of the Forests and Excise Department be pleased to state when the Gariahata illicit distillation case was detected?

(*b*) Is it a fact that the clue was given by the Government of India?

(*c*) How long was this distillation going on as proved from the facts revealed during the investigation of the case?

(*d*) Why was it not detected by the local staff so long?

(e) How much revenue approximately was lost for the illicit distillation and manufacture of foreign liquor?

(f) Who were the officers employed in actual detection of the case?

(g) Who were the officers deputed for investigation into the case? What are their names?

(h) What part of the investigation was entrusted to each of them?

(i) What places did each of these officers visit outside Bengal in course of the investigation?

(j) (1) Was any person or persons prosecuted from any of these outside places besides the principal accused persons of Calcutta?

(2) Was conviction of any of these persons ultimately maintained on appeal?

(k) Is it a fact that any officer or officers were given an honorarium during the pendency of the case?

(l) If the reply to clause (k) be in the affirmative, who were the officers so rewarded and what were the amounts given to each of the officers?

(m) Is there any precedent of giving such reward or honorarium before the final decision of the case?

(n) If the reply to paragraph (m) be in the negative, what was the reason for departure from the usual practice?

(o) What was the total amount of expenditure incurred by Government in conducting the case?

(p) Who were the lawyers engaged and what amount of fees was received by each of them?

MINISTER in charge of the FOREST and EXCISE DEPARTMENT (the Hon'ble Mr. Prasanna Deb Raikut): (a) 20th October, 1935.

(b) No.

(c) Fifteen months.

(d) Nobody expected illicit distillation in a locality inhabited by persons of standing, many of them connected with Government.

(e) No accurate estimate is possible.

(f) Mr. A. K. Basu, Collector of Excise, Calcutta, was responsible for the preliminary enquiries up to the 20th October, 1935.

(g) Captain G. D. Hoskins, Rai Saheb D. N. Mukherji, Babu Ranajit Chowdhury, Moulvi Mokaram Hossain and Moulvi A. Islam.

(h) *Captain G. D. Hoskins*—general supervision of the case and in particular the case against Chas. Granatstein;

Rai Saheb D. N. Mukherji—the case against Messrs. James Anderson and Messrs. Davidsons and their agents in so far as their business transactions in Rangoon and Akyab and through the Customs were concerned;

Babu Ranajit Chowdhury—the case against James Anderson, his agents and the agents of that firm in Karachi and Lahore, as well as investigation of the papers of the firm;

Moulvi Mokaram Hossain—the case against R. E. Thebith of Edward and Company, and persons employed by him; also enquiries in Calcutta about the transactions of these two firms with Granatstein, and enquiries about the coolies of Messrs. Davidsons; and

Moulvi Azizul Islam, Inspector—the case against S. Ezekiel.

(*i*) Capt. G. D. Hoskins—Bombay.

Rai Saheb D. N. Mukherji—Rangoon.

Babu Ranajit Chowdhury—Karachi and Lahore.

Moulvi M. Hossain—Balasore and Madras.

(*j*) (1) and (*k*) Yes.

(2) No.

(*l*) Rai Saheb D. N. Mukherji—Rs. 1,000.

Babu Ranajit Chowdhury—Rs. 500.

(*m*) and (*n*) These were not rewards, but remunerations for overtime work. No precedent can be traced at short notice.

(*o*) Rs. 1,41,851.

(*p*) Mr. A. K. Basu, Government Counsel—Rs. 1,01,643.

Mr. J. N. Mitter—Rs. 31,890.

Mr. S. C. Row Chowdhury, Advocate—Rs. 6,836.

Mr. Bireswar Chatterji, Advocate—Rs. 442.

The Advocate-General—Rs. 340.

The Solicitor to the Province of Bengal—Rs. 700.

Khan Bahadur NAZIRUDDIN AHMAD: With reference to answer (*d*), does the Hon'ble Minister expect that illicit distillation will be carried on in places where Government would expect it to be carried on?

The Hon'ble Mr. PRASANNA DEB RAIKUT: My answer is very clear. Government did not suspect that such a huge distillation was possible there.

Khan Bahadur NAZIRUDDIN AHMAD: Is it not a fact that persons carrying on illicit distillation are extremely clever people and that they will select such spots which are not to be suspected?

The Hon'ble Mr. PRASANNA DEB RAIKUT: It was not suspected, as I have said in my answer, in a locality inhabited by persons of standing, many of them connected with Government.

Khan Bahadur NAZIRUDDIN AHMAD: Is it not a fact that the case has disclosed widespread ramifications of this business?

The Hon'ble Mr. PRASANNA DEB RAIKUT: That may be so.

Khan Bahadur NAZIRUDDIN AHMAD: Is it not a fact that transactions from this illicit firm were being conducted with a large number of other firms almost very openly?

The Hon'ble Mr. PRASANNA DEB RAIKUT: It was discovered later on.

Khan Bahadur NAZIRUDDIN AHMAD: Is it not the opinion of Government that the persons who are entrusted with the detection of crimes in this area were negligent of their duties?

The Hon'ble Mr. PRASANNA DEB RAIKUT: I do not think so.

Khan Bahadur ATAUR RAHMAN: Sir, I wanted to know about the approximate amount of loss to Government and the answer is "no accurate estimate is possible". I do not want rupees, annas and pies. May I know what was the approximate loss of revenue to Government?

The Hon'ble Mr. PRASANNA DEB RAIKUT: It is not possible to give any definite information about the loss.

Khan Bahadur ATAUR RAHMAN: Again, Sir, I do not want any definite information. Why could not some approximate estimate be given in thousands or in lakhs?

The Hon'ble Mr. PRASANNA DEB RAIKUT: It is difficult to get all the information to make an estimate of the loss.

Khan Bahadur ATAUR RAHMAN: Arising out of answer (*h*), those officers who were engaged in the detection are mostly Gazetted officers. Did they all do any over-time work or did they do only routine work?

The Hon'ble Mr. PRASANNA DEB RAIKUT: Some of them did extra work which was not departmental work.

Khan Bahadur ATAUR RAHMAN: May I know what was the extra work which they did and which was not departmental work?

The Hon'ble Mr. PRASANNA DEB RAIKUT: It is evident from my answer (*h*).

Mr. KRISHNA CHANDRA ROY CHOWDHURY: Arising out of answer (*o*), is it a fact that the Government of India are contributing a portion towards this huge legal expenditure incurred by the Government of Bengal because the Customs revenue was involved in it?

The Hon'ble Mr. PRASANNA DEB RAIKUT: I cannot say at the moment whether the Government of India will contribute anything towards this amount.

Khan Bahadur ATAUR RAHMAN: In reply to questions (*m*) and (*n*) it has been said, "these were not rewards but remunerations for over-time work. No precedent can be traced at short notice." May I know whether Gazetted officers have ever been given by the Government of Bengal any remuneration for over-work?

The Hon'ble Mr. PRASANNA DEB RAIKUT: Not for over-work, Sir.

Khan Bahadur ATAUR RAHMAN: I mean for over-time work.

The Hon'ble Mr. PRASANNA DEB RAIKUT: I cannot give any instance at the present moment.

Khan Bahadur ATAUR RAHMAN: Notice of this question was given long before the session began, and as the Hon'ble President may remember, this question was asked when the case was *sub judice*. This question was going on for about 1½ years. So, it cannot be said that this is a short-notice question. This question was tabled in time. We wanted to know whether there was any precedent for giving any remuneration for over-time work to any Gazetted officer.

The Hon'ble Mr. PRASANNA DEB RAIKUT: I have nothing further to add to what I have said in answer (*m*).

Khan Bahadur ATAUR RAHMAN: Are there any Muhammadan lawyers in Calcutta who are equally qualified like those people employed in this case?

The Hon'ble Mr. PRASANNA DEB RAIKUT: There may be.

Khan Bahadur ATAUR RAHMAN: May we know why some Muhammadan lawyer was not engaged in this case?

The Hon'ble Mr. PRASANNA DEB RAIKUT: How can I answer that? It was done before my time.

Dr. RADHA KUMUD MOOKERJI: Arising out of (*o*), may I know whether the Government of Bengal have preferred any claim against the Government of India on the subject of this expenditure?

The Hon'ble Mr. PRASANNA DEB RAIKUT: Sir, I cannot say anything at the present moment.

Dr. RADHA KUMUD MOOKERJI: Arising out of (*o*), if the Minister in charge of the department is so neglectful of his ordinary duties about expenditure and how to meet that expenditure from other possible sources, I do not understand why he does not know even the A B C——

Mr. PRESIDENT: Order, order. That is not a question.

Dr. RADHA KUMUD MOOKERJI: My question was: why has the Government of Bengal not moved in the matter of such huge expenditure when there is a chance of getting some money out of the Government of India?

The Hon'ble Mr. PRASANNA DEB RAIKUT: Sir, I am not prepared to divulge any confidential information at the present moment.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state whether it is not a fact that the Government of India have given the Government of Bengal to the tune of Rs. 64,000 towards the cost of this case?

The Hon'ble Mr. PRASANNA DEB RAIKUT: Sir, I cannot give any information to that effect also.

Khan Bahadur ATAUR RAHMAN: Some officers went outside Bengal to Karachi, Bombay, Rangoon and Lahore. The accused prosecuted from those places were all acquitted and those officers who visited those places were rewarded for over-time and good work. In that case, may we know why, if the accused were acquitted, such officers were rewarded when their work ended fruitlessly?

The Hon'ble Mr. PRASANNA DEB RAIKUT: Those officers are not responsible for the way in which the cases were decided by the Court, but it was for their over-time work that they were rewarded.

Khan Bahadur ATAUR RAHMAN: Are we to take it then that the two officers Maulvi Mokaram Hosain and Maulvi Azizul Islam did not do over-time work in the detection of these cases?

The Hon'ble Mr. PRASANNA DEB RAIKUT: It appears from the facts that these two officers did over-time work and for that Government sanctioned remuneration.

Khan Bahadur ATAUR RAHMAN: May we know what is the nature of the order of the Commissioner of Excise for giving this remuneration?

The Hon'ble Mr. PRASANNA DEB RAIKUT: It was done before my time, and I could not tell the member the nature of the order.

Khan Bahadur ATAUR RAHMAN: Was not the sanction of the Hon'ble Minister taken in giving such unusual rewards to gazetted officers?

Mr. PRESIDENT: The Hon'ble Minister has already said that it was not done in his time.

Khan Bahadur ATAUR RAHMAN: This is long after the Government of India Act came into being.

(No answer.)

Appointment of Co-operative Inspectors and Auditors, etc.

104. LALIT CHANDRA DAS (on behalf of Mr. Humayun Kabir): (*a*) Will the Hon'ble Minister in charge of the Co-operative Credit and Rural Indebtedness Department be pleased to state if a large number of appointments was made in the Co-operative Department this year? If so, what was the number of Inspectors, Auditors and other appointments?

(*b*) Was the Public Service Commission asked by the Government to test and report on the suitability of the candidates?

(*c*) What are the numbers of the Muslim, Caste Hindu, Scheduled Castes and other minority community candidates declared suitable by the Public Service Commission and the number of appointments allotted to each of these groups?

(*d*) Were the Muslim candidates placed second, fifth and sixth in order of preference by the Public Service Commission appointed? If not, why not?

(*e*) Why out of the first list of 48 Caste Hindu candidates, sent by the Public Service Commisson, only 13 were appointed and 4 more appointed from the second list sent by the Commission?

(*f*) Was the Scheduled Castes candidate placed first by the Commission passed over and two men appointed who had been definitely rejected by the Commission as unfit? If so, what are their names and their districts?

(*g*) Was any candidate of other minority communities appointed who was considered definitely unfit by the Commission?

(*h*) What are the grounds on which candidates considered definitely unfit by the Public Service Commission were preferred to other candidates approved by the Commission?

MINISTER in charge of the CO-OPERATIVE CREDIT and RURAL INDEBTEDNESS DEPARTMENT (the Hon'ble Mr. Mukunda Behary Mullick): (*a*) No appointments as Inspectors and Auditors in the Co-operative Department were made this year. 26 Inspectors, 40 Auditors and a few clerks were appointed in 1938 in the Co-operative Department.

(*b*) No. The rules do not require that the Public Service Commission should be consulted for these appointments.

(*c*) to (*h*) Do not arise.

Mr. AMULYADHONE ROY: Will the Hon'ble Minister be pleased to tell the House, of the 26 Inspectors and 40 Auditors how many belonged to the Scheduled Castes?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I had answered a large number of questions regarding these appointments when Mr. Roy was not here. So far as this question is concerned, I may say that of the 26 Inspectors, 4 were Scheduled Castes candidates and of the 40 Auditors 7 belonged to the Scheduled Castes.

Mr. AMULYADHONE ROY: Will the Hon'ble Minister be pleased to tell the House whether in making these appointments he absolutely disregarded the problem of the unemployed and the principle of efficiency?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I do not know, Sir, whether you have been able to follow the question. So far as I am concerned, I have not been able to follow it.

Mr. AMULYADHONE ROY: Will the Hon'ble Minister be pleased to tell the House whether of the Inspectors appointed, two of them belonged to Government service, one in the Khulna Collectorate and another in the Education Department?

Mr. PRESIDENT: Order, order. That is giving information and not asking for information. In a question you must ask for information. If you have the information, then it is all right.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: As the hon'ble member is apprehensive, may I clarify the matter? The number of appointments was decided upon before I came into office. An advertisement was issued in January, 1937, asking for applications. There were over 6,000 applicants. These applications were sent to the District Magistrates for preliminary consideration. They interviewed the candidates and sent up their recommendations. These recommendations were placed before a Special Selection Committee with the Chairman of the Public Service Commission as the Chairman of the Special Committee. They recommended certain candidates, from amongst whom the candidates were chosen for training. All the candidates who had undergone training were then subjected to a competitive examination and on the result of the competitive examination, their appointments were finally made.

Mr. AMULYADHONE ROY: Is the Hon'ble Minister prepared to tell the House the result of that examination?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: They were appointed strictly on the basis of the result of the examination.

Mr. NARESH NATH MOOKERJEE: In order of merit?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Absolutely in order of merit.

Mr. AMULYADHONE ROY: Will the Hon'ble Minister be pleased to tell the House how many among the candidates appointed were his relatives?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I can assure the hon'ble member, there is absolutely none.

Mr. AMULYADHONE ROY: Is the Hon'ble Minister quite sure?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I am.

Mr. PRESIDENT: It is in accordance with parliamentary decorum to accept the Hon'ble Minister's statement and you must take it in that sense.

Mr. AMULYADHONE ROY: Will the Hon'ble Minister be pleased to tell the House whether an Auditor now posted in the subdivision of Khulna and another officer in the district of Berhampore are his relations?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I do not know who are the officers who have been posted there. I also do not know how these questions arise.

Laying on the Table of the Bengal Agricultural Debtors (Amendment) Bill, 1939.

SECRETARY (Mr. K. N. Majumdar): Sir, I have received the following message from the Secretary to the Bengal Legislative Assembly:—

In conformity with the requirements of rule 68 of the Bengal Legislative Assembly Procedure Rules, I am directed to send herewith a signed copy of the Bengal Agricultural Debtors (Amendment) Bill, 1939, together with 150 spare copies of the Bill and to state that the Bill was referred to a Select Committee of the Assembly before it was passed.

2. I am further to state that the Bengal Agricultural Debtors (Amendment) Bill, 1939, was sponsored by the Hon'ble Mr. Mukunda Behary Mullick.

3. A copy of the Statement of Objects and Reasons is enclosed.

Sir, I beg to lay on the Table the Bengal Agricultural Debtors (Amendment) Bill, 1939.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I beg to move that the Bengal Agricultural Debtors (Amendment) Bill, 1939, be taken up for consideration on a date that you may be pleased to fix.

Mr. PRESIDENT: The House will now resume further discussion on the Supplementary Estimate of Expenditure for 1939-40.

Mr. LALIT CHANDRA DAS: Mr. President, Sir, I desire to speak——

Khan Bahadur NAZIRUDDIN AHMAD: On a point of order, Sir, the Minister in charge of the department to which this subject relates is not present here.

Mr. PRESIDENT: I have already ruled that when discussion on the Supplementary Estimates of expenditure takes place in the House, the presence of the Finance Minister is essential. Will anybody representing Government please explain why the Finance Minister is absent?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I would offer an apology on behalf of my Hon'ble colleague. I have sent for him. If you be good enough to allow the discussion to continue——

Mr. PRESIDENT: As I have already explained, the discussion cannot go on because the presence of the Finance Minister is necessary to take down notes and reply to the points raised. The Hon'ble Minister knows that this House is not allowed to vote on these demands. The discussion on the Supplementary Estimates in this House is meant only to draw the attention of the Hon'ble Finance Minister to some points which require clarification. It is not the first time that this is happening. If they reshuffle the portfolios and put another Minister in charge of Finance, I have nothing to say. He may then take notes and reply. But it is highly improper if day after day the House is to waste its time in fruitless discussion. I do not know what steps the honourable members would like to take if Ministers go on neglecting their duties by this House in this manner. I was not informed beforehand that the Hon'ble Finance Minister will not be able to attend; otherwise, I could have postponed this item from being included in the Order Paper for to-day.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Beyond offering an apology, Sir, I have nothing further to say. But should you be so pleased——

Mr. PRESIDENT: The Chair would have been quite agreeable to accept it, if any information had been sent to me by the Hon'ble Finance Minister saying why he could not be present. This is not the first occasion when Ministers have absented themselves without any previous notice whatsoever. This sort of negligence has been noticed time after time. Most of the Hon'ble Ministers were absent to-day during the Question hour and I have said more than once that this sort of absence on the part of the Hon'ble Ministers constitutes a serious interference with the valuable right of the members to put supplementary questions.

Mr. RANAJIT PAL CHOUDHURY: Their salary should be deducted! (Laughter.)

Mr. PRESIDENT: Answering of questions does not consist in merely reading from a printed paper. That can be done by any clerk. I think it is time there should be a decision by the Council itself as to what steps they desire to be taken if this state of things continues.

Mr. SACHINDRA NARAYAN SANYAL: Sir, we entirely depend on your decision.

Khan Bahadur ATAUR RAHMAN: Sir, we depend on your decision. I may say that really speaking, as far as the work of the Council during the last 2½ years is concerned, we have done only questions and answers. The rest is merely dittoing what the other House has done. We are simply coming and going. By putting supplementary questions, we really get to know the inner working of the Government. If we are prevented from putting supplementaries even by reason of the absence of the Hon'ble Ministers, then practically there is no use for the Upper House.

Dr. RADHA KUMUD MOOKERJI: Sir, I wish to say that the Government stands convicted to-day of a deliberate violation of the privileges of this House. I am afraid that Government are proving incorrigible in spite of the repeated admonitions that have been administered from the Chair. I think, Sir, that this Council is entirely helpless and depends entirely on you to safeguard our privileges which are being trampled upon mercilessly and ruthlessly in this way from day to day. It really means that we are treated with very scant courtesy. The Hon'ble Ministers have no consideration for the value of our time. I believe that they are behaving as if the Upper House does not exist as a part of the constitution. Under the circumstances, I definitely hold and I hope that the Council will agree with me, that Government stands convicted to-day of a serious violation of the privileges of this Upper House. (Cries of "Hear, hear".)

Mr. H. C. A. HUNTER: Sir, I would like to join in the general expression of regret for the absence of the Hon'ble Finance Minister, but I have no knowledge of the circumstances which have led to that absence.

Mr. SACHINDRA NARAYAN SANYAL: This is not the first occasion.

Mr. H. C. A. HUNTER: There may be some good reasons. I hesitate to condemn the Minister before hearing his excuse.

Mr. KAMINI KUMAR DUTTA: Sir, there may be some excuse, and if indeed the facts constituting the excuse had been brought to the notice of the Chair, it would have been in a position to state to the House the facts leading to the absence of the Minister in charge of Finance. Even if there had been, as I have already said, a very reasonable excuse, it was the duty of the Minister concerned to bring this fact to the notice of the Hon'ble President before this item was included in the agenda of business for this particular day. So, really it is very difficult for this House not to record, if I may say so, a vote of disapproval of such conduct on the part of the Minister. Repeated warnings have been given by the President that even at the time of giving replies to supplementary questions, Ministers in charge of the administrative departments to which the questions relate and who are expected to be fully equipped with facts for giving adequate replies to the supplementary questions, are often found absent. In this House we have indeed reasonable grievances to make that this highly valued right of putting supplementary questions is practically ignored. We must acknowledged that our President has repeatedly brought this fact to the notice of Hon'ble Ministers, but still no remedy has been forthcoming.

Mr. NARESH NATH MOOKERJEE: May I submit, Sir, that we cannot resume the discussion on the Money-lending Bill in this atmosphere?

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Sir, this is not the first instance when a Minister has been found absent from this House. Ministers have, as a matter of fact, persistently ignored this House not only on this occasion but on several occasions. Only the other day, the Finance Minister was absent and we were obliged to adjourn the House for that day giving warning, or if I may say so, censure to the Minister. (Cries of "Hear, hear" from Congress Benches.) Still, Sir, they ignore your ruling and neglect this House. The prestige of the House has been lowered by them intentionally, if I may say so. I find from their repeated action that they have done so intentionally not only by their words but also by their action. Sometime ago, the Hon'ble Chief Minister reflected on the utility of this House in a speech, but I did not take any notice of it, as I thought that perhaps he was not speaking seriously about the subject. But from the action of the Ministers it appears that they have ignored the privileges of this House and thereby lowered the dignity of this House.

Secondly, Sir, as the Leader of the Opposition has said, during question time Ministers in charge of particular departments who are to answer questions are not present and as a consequence another Minister in charge of another department has to answer the question with the result that he cannot reply to the supplementary questions. That is also not desirable. I request you, Sir, to see that especially during the Question hour, Ministers who have to answer questions relating to their departments are present. I would request you to consider all these and give your ruling, so that the prestige of the House may not be lowered.

Khan Bahadur M. ABDUL KARIM: Sir, the present situation is simply intolerable. The limit of endurance has been reached, if not exceeded. In spite of frequent reminders from the Chair to maintain the dignity and prestige of this House, Hon'ble Ministers have been callous. In my humble opinion, it is high time that the matter of such laches on the part of Hon'ble Ministers is brought directly to the notice of His Excellency the Governor. (Cries of "Hear", "hear" from Congress Benches.) I am further at one with the opinion that if Ministers go on treating us like this, we may take recourse to a not very desirable step of boycotting (Dr. RADHA KUMUD MOOKERJI: Non-co-operating!) this Council to bring the administration to a deadlock. This is all that I can say on behalf of myself and on behalf of the members of my party whose time is measured more by gold than by silver. (Cheers.)

Mr. PRESIDENT: It has been brought to my notice by the Parliamentary Secretary that the Hon'ble Mr. Suhrawardy would be late today by a few minutes. So, I adjourn the House for 15 minutes and if the Finance Minister does not turn up in the meantime, I shall advise the House as to what steps should be taken. As a matter of fact, I brought to the notice of His Excellency the Governor this state of things on a similar matter the other day. The House will now adjourn for 15 minutes.

The Council then adjourned for 15 minutes.

(After adjournment.)

Motion of Privilege.

Dr. RADHA KUMUD MOOKERJI: May I rise on a point of privilege, Sir?

Mr. PRESIDENT: Yes, Dr. Mookerji.

Dr. RADHA KUMUD MOOKERJI: I wish to place the point in the form of a resolution which reads as follows:—

That an address be presented to His Excellency the Governor through the Hon'ble the President that this Council is of opinion that the Ministers have committed a grave breach of privileges of this House by persistently abstaining from attending its meetings for transaction of business requiring their attendance.

Sir, I do not like to say much by way of commending this resolution to the acceptance of the House. I think the words of my resolution are absolutely clear and this resolution does not require any explanation after what has happened and after the experience of every individual member of this House of what this House has to go through at times owing to the circumstances stated in the resolution.

Mr. PRESIDENT: Motion moved: that an address be presented to His Excellency the Governor through the Hon'ble the President that this Council is of opinion that the Ministers have committed a grave breach of privileges of this House by persistently abstaining from attending its meetings for transaction of business requiring their attendance.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, probably my friends have not clearly appreciated the difficulties through which the Ministers are passing at present. You must have seen that in the course of the last three days a change has taken place as a result of which the whole work of the Government has been dislocated. On the very first day, when this question arose, I was the man who, absented himself from the House to answer a point of order that was suddenly raised by the Hon'ble the President.

Mr. PRESIDENT: The Chair did not raise the point.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: However, a point of order was raised and you all know that this Money-lenders Bill in regard to which that point of order arose was actually piloted by the Hon'ble Mr. Suhrawardy in the Lower House. So, when a new point was raised in this House, I had no other alternative but to take time and run to the Government House because it was the Governor who had to give his assent. I was discussing the matter with the Secretary to the Governor and with the Chief Minister when a telephonic message went from the Hon'ble the President to the effect that he was going to adjourn the House at once. Having got this telephonic message, the Secretary to the Governor said "Now, nothing will happen. We will do everything to-morrow and see that everything is in order". Hence, having known the decision of the Hon'ble President of the Council, we probably came two or three

minutes late. When we came here in all possible haste that one could come, I found that the Council had been adjourned. This, I believe, gives you a clear explanation of what actually took place on the first day when the first breach of privilege was committed. I believe that the explanation that I have given will convince you that it was nothing intentional and when on the next day I spoke to the House about what happened previously, I did not say all that I had to say. The explanation that I have given you now will convince you that the Minister whom you are now accusing as having been guilty of a breach of privilege did everything possible to come within half an hour. But within that half an hour, a telephonic message went from here saying that the Council would be adjourned. He came late by two or three minutes. He at once saw the Hon'ble President and when he heard that the Council had been adjourned, the whole thing was taken over to the next day.

Mr. SHIRISH CHANDRA CHAKRAVERTI: What about the next day's absence?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I could never think that I am in any way guilty of any disrespect to this House. This is my explanation so far as the first day is concerned.

As regards the second day, when my Bill was on the agenda, I must tell you this that I was informed by the Chief Whip of the Coalition Party that the Money-lenders Bill would not be taken up that day and I was further told that it was wrongly put on the agenda paper. The only work that was meant for that day was discussion of some financial statement.

Mr. NARESH NATH MOOKERJEE: Don't believe the Chief Whip.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: You know why on that day the Finance Minister was absent. You know that it was a prelude to the great catastrophe that had befallen the country, especially Bengal. We are sincerely sorry for the decision of Mr. N. R. Sarker to resign from the Cabinet. We were working in co-operation with one another in every possible way. However, that is by the way. Thus, you see the second day's trouble arose simply because my friend Mr. Sarker was at that time deciding to go out of the Cabinet. Don't you think, Sir, that that is a sufficient reason for a certain Minister not being present? If a Minister who has left the Government has committed any breach of privilege, do you mean to say that other Ministers should be condemned?

Mr. SHRISH CHANDRA CHAKRAVERTI: It is a joint responsibility.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: It is a very serious affair. You have framed a serious charge against us. We must meet it.

Mr. RANAJIT PAL CHOUDHURY: It is your own doing.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: You are the Judge here and I appeal to you all to consider this. These are the two days on which you think that the man who is now standing before you has been guilty. He has given you the reason for the first day's absence.

On the first day, I got permission from the President that I might be absent from the House for only 15 minutes. Do you mean to say that this should be construed as an intentional insult to this House? Further, I must tell you that when on the next day, without entering into the merits of the question, I asked you to forgive me, you forgave me then and there. You said the whole thing was over. After giving a gentleman's word, if you now rake up those very things and say we have consistently done wrong to this House and have actually dishonoured you, I believe, you are not right. After a thing has taken place and after that matter has been actually closed, and after you have excused a man who may be an offender or an innocent man,—if after all this, you raise that point again, may I ask you—is it a gentleman's agreement? Please consider this. It is a very serious charge that you have brought against us. You know we owe our allegiance to you all and we cannot continue as Ministers unless we have the confidence of this House. If you say that we are not hearing you, we cannot continue as Ministers any further. I know that full well. So, I appeal to you to consider this. These are the incidents which you have taken so much to heart. The first day you excused and for that I do not plead guilty. I think, I was absolutely helpless and innocent.

Mr. RANAJIT PAL CHOUDHURY: The Opposition accepts your submission.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: You accepted that.

Mr. RANAJIT PAL CHOUDHURY: The Opposition again accepts it but what about your colleague?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: As regards the second day, I told you what had happened. So, how can you say that the Minister absented himself willingly when I was

told by the Chief Whip that the subject would not come up at all before the House that day? How can you say that I absented myself willingly if the Home Department wrongly puts in a subject in a piece of paper and misleads the President? The Home Department is to be blamed and not the Minister who was told that the subject would not be taken up.

Dr. RADHA KUMUD MOOKERJI: Is not the Minister responsible for his department?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: It is not my department. The Home Department wrongly put in that subject in the agenda paper. (Laughter.)

As regards the third day, that is to-day, you know that the Hon'ble Mr. Suhrawardy gave previous intimation to the Hon'ble President that he would be a little late. I was hearing all that from the very beginning. The Hon'ble President postponed some questions for taking them up later on. Exactly in the same way, if other questions also had been postponed, all this difficulty would not have arisen. I was absolutely ready here for my work in connection with the Money-lenders Bill. The Hon'ble Mr. Suhrawardy was late by just a few minutes and if his subject had been postponed only for a few minutes, he could have taken it up in right earnest and there would have been no difficulty. I think this explains the position of the Ministers and you will please pardon us if we have done anything wrong. I believe, I have given sufficient explanation for our absence on these three days. Having regard to the catastrophic condition which has befallen Bengal on account of the resignation of Mr. Nalini Ranjan Sarker, I hope the House will——

Mr. PRESIDENT: May I interrupt the Hon'ble Minister for one minute? I ask him a question. Referring to the proceedings of that day, I find that when the question of absence of the Hon'ble Finance Minister was raised, the Hon'ble Maharaja Srishchandra Nandy said —"I may state, Sir, that the Hon'ble Finance Minister is not keeping very good health. I think, he will come here shortly." That does not tally with the statement that the Hon'ble Minister now makes or the statement that was made by the Hon'ble Finance Minister himself.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: After all, a man may have illness. He might have a lot of other reasons for absenting himself. There is no doubt that Mr. Nalini Ranjan Sarker was ailing for a long time. So, if anybody would say that probably it is due to his illness that he did not come, he is also right.

Mr. SHRISH CHANDRA CHAKRAVERTI: He was mentally ill.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Yes, he might have been mentally ill. (Laughter.) In view of the present difficulty of the Ministry, I hope you will kindly excuse us for the first time. I do not think there will be any difficulty in future. All will come punctually to this House. (Laughter.) I hope you will now forget all that you have said and forgive us.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I do not know whether after the regret, and, if I may say so, the apology which has been expressed to this House by my Honourable colleague, the Judicial Minister, it is necessary for me to say anything and to offer my regrets and apologies also to this House for my inability to be present when the House met to-day. Sir, I would have risen immediately after you had taken your seat to offer my explanation and my regrets to this House had it not been for the fact that I was apprised of the fact that it was intended to move a privilege motion on behalf of the Opposition. I then thought that if I did get up and apologise to this House before the privilege motion was moved, it would be taking the wind out of the sails of Dr. Mookerjee and possibly the explanation or the apologies which I desired to tender to this House would come, if I may say so, with a better grace after the privilege motion is moved than before. Honourable members know that on account of various dislocations in the business of Government which all of us most deeply regret, it has not been possible for some of us to keep to the time as we would have very much liked to have done This is the only explanation that I can give. I only add to that my regrets and I hope, Sir, that this House will never again have the opportunity of being able to complain with regard to——

Mr. BANKIM CHANDRA DATTA: You give that definite assurance?

The Hon'ble Mr. H. S. SUHRAWARDY: Yes. I hope, Sir, that in future this House will not have any such occasion to pass such a motion.

Dr. RADHA KUMUD MOOKERJI: Sir, in view of the assurance that has been given by the two Hon'ble Ministers who have been accused on the present occasion and in view further of the fact that Government has confessed its error together with a promise of good behaviour in the future (laughter), I think I shall voice the opinion of the whole House if I say that under the circumstances, the Opposition would not press this motion. At the same time, the Opposition also wishes to appreciate the very outspoken spirit and the candour which marked the

speech of the Hon'ble Minister of Justice. (Cries of "Hear, hear" from the Congress Benches.) It was his outspokenness that has won us over to some extent and coupled with his assurance, there is also the expression of regret from a somewhat hard-headed Minister—I mean the Labour Minister. (Laughter). So, I think that we have given expression to our protest and we realise that perhaps we have succeeded in winning our object by making the Government penitent, and promise that they would behave better in future. I, therefore, beg leave of the House to withdraw this motion.

Mr. PRESIDENT: Is it the pleasure of the House to permit Dr. Mookerji to withdraw his motion?

(Cries of "yes, yes!").

(The motion of Dr. Radha Kumud Mookerji was then, by leave of the House, withdrawn.)

Supplementary Estimate of Expenditure for 1939-40.

Mr. LALIT CHANDRA DAS: Sir, I desire to speak a few words on grants Nos. 23 and 35.

Grant No. 23 deals with charges on account of agriculture. Sir, it has been estimated that the charges for the preparation of a record of lands on which jute was grown this year would come to Rs. 7,15,000. Sir, I fail to understand why Government should confine the operation to one particular year. It raises suspicion in the minds of the people of Bengal as to why the lands of those who cultivated jute this year should only be recorded as jute-growing lands. There are other tenants whose lands are jute-yielding and who used to grow jute before this particular year. It raises an apprehension in the minds of the peasants of Bengal that their right to cultivate lands and to use jute would be jeopardised if only the record is made of one particular year only. Could not a portion of this amount of Rs. 7,15,000 be extended also to three previous years at least to ascertain which lands used to grow jute? Sir, may I tell the Hon'ble Minister one fact and it is this—that owing to the low price of jute in previous years, many peasants who used to cultivate their lands and grow jute thereon, dropped the idea of raising jute at all on those lands. They actually began to cultivate lands and grow paddy thereon. As a matter of fact, when jute used to yield a fair price, I may say that they could anyhow manage to make the two ends meet by the surplus money, by being able to purchase the available paddy for the purpose of maintenance.

But when the price of jute fell low, they gave up the idea of growing jute on many lands. Also owing to the voluntary restriction they began to grow paddy on their own lands. Simply because these peasants did not grow jute on their own lands why should they be deprived of

their right to grow jute on their lands in future, now that jute shows to be a very profitable crop. That is a thing which the people of Bengal would desire to know and which the Hon'ble Finance Minister will be pleased to make explicit.

Next I come to grant No. 35. It relates to Loans and Advances by Provincial Government. It appears from that grant that cash credit in favour of the Provincial Co-operative Bank has been allowed to the tune of Rs. 13,50,000 with a view to enable the Co-operative Banks in mufassil to advance money to the cultivators. At least this, Sir, is the explanation that has been recorded in the Memorandum. We desire to know from the Hon'ble Minister what has been the extent of the money that has been distributed to the different banks in the different districts of Bengal and whether Government is aware or whether Government has taken any steps to know that the Provincial Co-operative Banks in the mufassil give in time loans to village societies and whether the village societies lend out money in their turn in proper time to the cultivators. All that I mean to say is, whether the intention of the Government to help the cultivators is being actually carried out both by the Provincial Co-operative Banks as well as the Central Banks in the mufassil. We know, Sir, to what miserable position the Co-operative Banks have been reduced by the inability of many village societies to pay their dues in proper time. We know that some Co-operative Banks are on the verge of ruin and insolvency. Is it a fact that the purpose of helping the members of the agricultural societies or the cultivators in the mufassil, where the money is lent out by Government through the Provincial Co-operative Banks, is to save the rickety Central Co-operative Banks? I have my suspicion that these monies are not being utilised for the purpose for which they were intended, and my suspicion is that as a matter of fact these monies are being utilised by the Central Co-operative Banks themselves for the purpose of meeting their own needs and not, Sir, for the purpose of giving money to the members of the village societies. Unless a thorough enquiry is made, the purpose for which cash credit has been advanced in favour of the Provincial Co-operative Banks will be lost. With these words, Sir, I would take my seat.

Mr. NUR AHMED: Sir, I only want to make some remarks on Grant No. 30. At the very beginning, I must submit that it is a matter of great gratification to see that for the first time, the Government have come with a larger sum for the relief of human sufferings. But as regards the distribution of the loan, I have to make some suggestion. It appears that these sums are distributed in small sums in thousands, in some districts Rs. 10,000 and in some districts Rs. 5,000. At the time this is distributed, people practically starve, and it is done mostly through Circle Officers and others. It so happens that sometimes really deserving people who live far away from the centre of distribution, do not get any relief and most of the sum goes to those

persons who are clever enough to go to the Circle Officer and President of the Union Panchayet. My only submission to the Hon'ble Minister is that Government should frame certain rules so that these sums may be usefully spent for the benefit of those suffering persons who really stand in need of help.

Then I come to Grant No. 35. Here also I must congratulate the Ministry on their liberal policy of granting relief to the poor agriculturists. I think that though the sum appears to be larger in proportion to the real need this is insignificant, almost a drop in the ocean. There is also something to be said about the way in which money is advanced to the cultivators. In other words, the way in which the agricultural loan is distributed is most objectionable. Under the law, as it stands, it is a fact that no loan can be granted to an individual cultivator however needy and however deserving he may be. Money is generally advanced to a group of eight or nine cultivators. Sometimes it so happens in some areas 1 or 2 or even 3 deserving cultivators who are really in need of money cannot get any help.

There is another fact also. A very small sum is lent to a group of 8 or 9 persons, sometimes Rs. 50, sometimes even Rs. 25. As the sum is distributed to 8 or 9 persons, the amount which each individual gets becomes very small, and thus the purpose for which the loan is granted is frustrated. So my appeal to the Government is to amend the rule in such a way that the loan may be granted to the cultivators in a manner by which they could derive the fullest benefit.

Then, as regards the advance of Rs. 13 lakhs to Provincial Co-operative Banks, I think this a welcome advance and should be supported.

Rai Sahib INDU BHUSAN SARKER: Mr. President, Sir, I beg to observe a few points in connection with the Supplementary Budget Estimate for the year 1939-40.

Sir, a provision for Rs. 20,000 has been asked for under grant No. 8 —"Other Taxes and Duties". Pay of 275 officers has to be voted. Are these officers to be appointed newly? If so, what will be their grade and how long will their services be retained? Is there no other agency under Government which could do its work in addition to its own, as was done, Sir, a few years ago by the Subdivisional Officers and District Officers who were entrusted with the income-tax work in addition to their own duties? Sir, if this be possible and feasible, I think a good deal of public money may be saved without hampering the efficiency of the aforesaid work.

Sir, under the head "Process-serving Charges" a sum of Rs. 4,460 has been provided. It is not clear what sort of agency will be required for this process-serving. Will it be done through the peons or the

Post Office (registered acknowledgment due) as is done by the Income-Tax Department? The latter method will surely be an economic one.

Now, Sir, with regard to the grant under item No. 23—Charges on account of agriculture, a rather big sum of Rs. 7,15,000 has been provided. With a view to the introduction of the regulation of the growing of jute, the preparation of a record of the lands on which jute was grown this year has already been undertaken and about 5,000 men have been appointed for three months. May I ask, Sir, if the results will be commensurate with the huge money spent? Will these officers be able to finish their task in three months or the Government will come again with a demand for their further continuance?

Sir, when the price of jute has gone high after long years of depression, will it be prudent to push on this scheme with a view to put a break on the chances of cultivators' increase of income? Sir, though the increase may mainly be due to the present war, yet the said increase is likely to be steady for some time to come in order to adjust the world market, as Bengal is the chief jute-growing province, unless any suitable and cheap substitute is found out. Hence, Sir, will it be advisable to take up the regulation of the growing of jute at this present juncture? Sir, I am glad to say that the Hon'ble Minister for Agriculture has given his anxious consideration over this vital subject, and in answering the question No. 95 yesterday he said that he had introduced the Bengal Jute Regulation Bill, 1939, with a view to securing a good price for jute and the object of the Bill is to regulate and not necessarily restrict the cultivation of jute according to the demand and stock, etc. If that be his view, Sir, I do not understand why there was so much hurry in preparation of record of land, where jute is grown, at the huge cost of Rs. 7,15,000 in anticipation of sanction by the Legislature? In my humble opinion, Sir, the matter could wait for some time more. May I know, Sir, if there is any idea of making these temporary posts permanent or semi-permanent in any shape and what is the value of the different posts created under this head?

Sir, under the item, grant No. 29—Civil Works, it has been stated that the condition of quarters for Government House servants in Calcutta has become so bad that immediate reconstruction is necessary and a decent sum of Rs. 50,000 has been provided. But I wonder, Sir, what the Communications and Works Department had been doing all this time? Did not they have any occasion to inspect the quarters before and place their demand when the original budget was framed? The Communications and Works Department must have spent public money year after year, but it must have been due to lack of proper supervision that the proposal of immediate reconstruction came so late. If it were done earlier, much public money could have been saved over the repairs of buildings absolutely unfit for repairs and requiring

immediate reconstruction, on the other hand the inconveniences of the servants would have surely been minimised.

Instances of this nature are not rare. The Communications and Works Department always should come beforehand with such proposals for reconstruction where money for repairs will surely be a waste.

Under grant No. 35, a demand for Rs. 47,60,000 has been made on account of Loan and Advances by Provincial Governments. Out of that Rs. 34,10,000 has been provided for advances to cultivators and Rs. 13,50,000 for cash credit in favour of the Provincial Co-operative Bank for short-term loans to members of agricultural societies, and I must say it was really a right move in the right direction. But, Sir, as regards the mode of realising short-term loans, sometimes harsh measures are taken recourse to by the collecting agencies of the Co-operative Department on the cultivators, and as such great pressure is put upon them. The blessings of the Bengal Agricultural Debtors Act are of no avail in such cases as these loans are not within the purview of the said Act. When other creditors of the cultivators are made to wait and forego their dues to a great extent, is it not proper that the Government also should be less harsh and a bit more charitable towards the poor cultivators? Lastly, Sir, when both the District Officers and the Co-operative Department distribute agricultural loans, instances are not rare where the same person or the member of the same family has got loans from both the agencies and many deserving people were denied this most essential relief for want of funds, later on.

In future, Sir, if such occasion arises—I wish there may not arise again—my humble suggestion is that the Government should keep stricter eye with regard to the distributing agencies so that double relief may not be given to the same person or member of the same family.

In conclusion I congratulate the Government for spending a good deal of money—though not sufficient—as the rural credit has almost frozen owing to the establishment of Debt Setilement Board, etc., for giving relief to the poor agriculturists and other needy persons in the shape of agricultural loans, test work and gratuitous relief to meet the terrible situation arsing out of floods and drought. I also congratulate the Government officers deputed for the purpose and specially the non-official agencies who undertook this arduous task of giving relief to the deserving people.

Khan Bahadur ATAUR RAHMAN: Sir, I have not got much to comment on this supplementary budget. Practically all the demands made here are made to meet popular demands, excepting the first one, namely, No. 8 regarding the collection of tax on profession, which is only Rs. 20,000. As the last speaker said, possibly this can be reduced by introducing other methods, e.g., by engaging Subdivisional Officers for this work.

Sir, I have only a few words to say on grant No. 35. It is indeed very congratulatory on the part of the popular Government to look to the masses now. There have been constant cries that the masses are not properly looked after. Government has very lavishly provided money and given some loans to the people suffering from flood and famine, etc. The amount of agricultural loans, as it appears from the explanatory note, is to meet the situation arising out of flood or drought, but flood or drought is practically an annual visitor to Bengal, and the Bengal cultivators who from about 80 per cent. of the total population are in awful debt—possibly over a hundred crores of rupees. They are in constant need of credit. Such advances by driblets will not possibly meet the situation, particularly after the situation that has been brought about by the Bengal Agricultural Debtor Act and the Act which is on the anvil of the Legislature. When this Act was first taken up by Government or rather before the Act was put in the statute book, I think Government should have prepared a comprehensive scheme for rural credit. Sir Daniel Hamilton of revered memory cried hoarse for years together to bring back the heavy amount of gold lying idle in London to rehabilitate the credit of India. Nothing is more necessary than for the cultivators to get more money by easier credit and to bring more stability to the condition of the peasantry. If we look into this budget, we shall find that it is a very large sum indeed which is given to the cultivators as loan. But if one cares to see how much actually goes to individual cultivators, he will come across cases of people getting Rs. 4 or Rs. 5. After they have come from a distance of 15 or 20 miles to the Circle Officers who distribute the loan they receive a loan of Rs. 4 only and that too by losing a day or two's labour.

Mr. PRESIDENT: Order, order. Will the honourable member take a long time?

Khan Bahadur ATAUR RAHMAN: No, Sir. I will take only one minute more. So, I would impress upon Government that they should have a better method of distribution of these loans. The cultivators should not be dragged miles to get the paltry loan of Rs. 4 or Rs. 5. At the same time, I would impress upon the Government to see that the credit facilities of the cutlivators are better established, particularly when the Loans Act will be brought into force, otherwise the whole peasantry will suffer and there will be stagnation.

Mr. PRESIDENT: Before I call upon the Hon'ble Finance Minister to reply to the debate, I would draw his attention to the fact that this right of discussion on the Supplementary Estimates is a statutory right of this House. That being so, the date for discussion of the estimates should be fixed before the matter is being voted upon

in the other House. Otherwise, it becomes almost like a post-mortem examination if the demands have already been voted upon in the other House. It is true that the main purpose of discussion of the Supplementary Estimates by this House is to draw the special attention of the Hon'ble Finance Minister, but it has other purposes also, namely, to draw the attention of the public and others who have a right to vote on these items. I hope in future the Hon'ble Finance Minister will see that the discussion on the Supplementary Estimate may be taken up before the supplementary demands are voted upon in the other House.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, the remarks which you have let fall just now will be taken due note of, and I hope that in the next session this will not be repeated.

Sir, I am very glad to find that the House appreciates that this Government has done its level best to provide money for the masses of this province and to relieve their distress to the best of its ability. Sir, we are conscious of the fact that in the distribution of relief, in the distribution of money out of the famine fund and even in the distribution of agricultural loans, Government have not been able to pay with their full heart which they would like to do. The needs of our agriculturists are considerable, and they can hardly be met by occasional agricultural loans. I entirely agree with the honourable member who spoke last that we ought to put rural credit on a sound and scientific basis, so that the needs of our agriculturists for credit might be met as far as possible. I may inform the House that this matter has been engaging our most earnest consideration, but it is obvious to all members of the House that in order that the scheme may be fruitful, it involves and will involve Government in an enormous expenditure—possibly of crores of rupees every year. Consequently, any scheme of this magnitude, before it is launched and before the revenues of the province are made available for this expenditure, will have to be carefully considered, so that it may not ultimately result in loss to the provincial exchequer.

Sir, the sum of money allotted for preparing a record of lands which were this year under jute cultivation has been necessitated by the acceptance of the policy by this Government that regulation of jute is necessary in order that the agriculturists may obtain a fair and adequate price for that commodity. Voluntary restriction on which Government had embarked has not succeeded to the extent that we hoped it would do. We find that, in order that the supply of jute may be commensurate with the world demand, efforts must be made to regulate that supply. Now, Sir, it was necessary to do so this year, because we did not know when and in which year we will be called upon to undertake this measure. It may be that we may have to adopt this measure at the beginning of the next year. After all, we do not know

how long this War will last, and all of us hope that it will have as early a termination as possible. If jute cultivation is left uncontrolled after the price which the cultivators received from jute this year, there is no doubt that there will be so much of jute grown during the next year that the price will fall very low indeed and below an economic level, that is to say, if owing to some chance or mischance the demand for jute falls considerably below the supply. Now, Sir, it may be again that we may not have to restrict cultivation of jute next year, and in reply to a question by an honourable member as to whether this is likely to be repeated, I may say that we may have to come again before the House to ask for permission to make a fresh assessment and fresh measurement of lands, so that we may at least have proper records of two years upon which we can base our calculations. I am, however, in a position to assure the House that the staff we have raised is not likely to be permanent or even semi-permanent. But at the same time, the records which we are preparing will be of the utmost value to Government and to the agriculturists. I can assure this House that this money will not be wasted. By this means, we may be able to increase the wealth of the agriculturists by crores of rupees annually, and any sum of money that we can lay out in this direction in order to put the regulation of jute on a scientific basis is money which, in my humble opinion, is well spent.

Now, as regards the money that has been distributed through Provincial Co-operative Banks and Co-operative Banks in general, I would like to assure the House that before this money was spent, we took pains to see that it was utilized for the benefit of the agriculturists who are in need of short-term loans. Not a pice of this money has gone to pay the expenses of Central Banks or to meet dividends or to pay off bad debts. All the Central Banks to which money was advanced were first asked to collect the various obligations, to test them, to find out whether money should be advanced to the applicants or not. Thereafter, these were collected and monies were advanced on that basis. Care has been taken to see that monies have gone to the pockets of those who needed them for purposes of agriculture. Sir, we do hope that in course of time the Co-operative Department will function mainly for the provision of short-term loans to agriculturists at the time of their need and that the past of the Co-operative Banks and the manner in which hitherto loans have been advanced will be matters which will only live in regrets and possibly soon pass into oblivion. The Provincial Co-operative Bank has from its own funds advanced certain sums of money and it needed Rs. 13½ lakhs in addition for the purpose of meeting various obligations.

As regards the Famine Code, in regard to which certain objections have been raised, I may inform the House that the Hon'ble Minister for Revenue is at the present moment taking great pains in revising the Code and he hopes that in due course the Famine Code, properly

drafted, which will be of benefit to the agriculturists and will conform to the advancing ideas of the times will be placed before the House and before the country for its acceptance.

I hope, Sir, that the Supplementary Estimate which has been placed before the House, meets with the acceptance of the House.

Resolution appreciating Mr. K. N. Majumdar's Services.

Mr. PRESIDENT: Before the Council is adjourned to-day for the Christmas recess, the Chair desires to draw the attention of hon'ble members to the fact that when they meet next on the 3rd of January, they will miss their very able and experienced Secretary who is retiring on the 31st of December this year. The honourable members of the House are well aware with what devotion and sense of responsibility Mr. Majumdar had been discharging his duty during the last few years. I happen to know him for a very long time. When I was a member of the old Bengal Legislative Council in 1924, Mr. Majumdar was then the Assistant Secretary. I came to know him better still when he was in Delhi receiving his training as an expert draftsman and sitting by the side of the Clerk at the Table of the Central Legislative Assembly. Since then, I have had sufficient opportunities of seeing him at work from close range and I am very glad to acknowledge that on many an occasion I received advice in respect of the interpretation of Statutory rules which was very helpful to me. If it is the unanimous desire of the House, I would like to place on record our high appreciation of his services by moving the following resolution:—

That this Council desires to express its appreciation of the manner in which Mr. K. N. Majumdar has uniformly discharged the duties of his important office during the long period spent by him in the service of this Council as its Secretary, and in the Bengal Legislative Council before and after the Montagu-Chelmsford Reforms.

The Hon'ble Mr. H. S. SUHRAWARDY: May I on behalf of Government join with you in your appreciation of the services of Mr. Majumdar? Few of us realise how the smooth working of the Legislature is dependent upon the work of the Secretary and Government, Sir, have received from Mr. Majumdar the greatest help in their work before the Legislature which, I desire to tell him and the House, Government appreciate very much.

Mr. KAMINI KUMAR DUTTA: Sir, with the greatest pleasure I, on behalf of my party, join in the appreciation of the services of Mr. Majumdar which he so richly deserves. I can speak not only

of his services in the House but I am personally thankful to him for his help on many occasions when I found that I could get very useful aid from him even on matters of law and interpretation of the Statutes. I do personally also acknowledge my thankfulness for that. Though I am myself a lawyer and a lawyer of some experience, I must acknowledge here that in interpretation of the Statutes I did get help from him in matters in which my own idea was not so clear and after consulting the authorities I found that he was quite accurate in his interpretation of the Statutes. In the discharge of his work as Secretary to the Council, not only was he conscientious and dutiful but also as one having a very sound knowledge of the laws regarding the constitution. I must say that he deserves our unstinted admiration and as regards his courteous behaviour, I can only say that it is very difficult to find another equal to him. With uniform courtesy he has treated us all. Whenever we required any information from him, with the utmost diligence he has given the information to us. So, on behalf of my party, I again express my appreciation of the services of Mr. Majumdar.

Mr. H. C. A. HUNTER: Mr. President, Sir, I should like to associate my party with the feelings which you have expressed. I regret that I am not much of a speaker; otherwise I would have been able to do better justice to so congenial a subject. I think that it was Lord Morley who said that the hardest work was the responsibility of saying 'Yes' or 'No'; and if there are permanent officials,—no matter whether in Government or in one's own business,—who can marshal the facts accurately and who can put up all the points of view to enable decisions to be made, it is half the battle won in any organisation. I think that the House is under no misapprehension that Mr. Majumdar is a man of that calibre and I should like, on behalf of my party, to associate myself with the expression of appreciation and to wish him all future happiness.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Mr. President, Sir, I beg to associate myself and my party with the words which you have spoken in appreciation of the services of Mr. Majumdar. Mr. Majumdar has been known to me since his boyhood. His father was a friend of my late revered father and he was one of the most renowned physicians in Bengal. As regards his services, I can say that there was not a single occasion either in this House or in the old Legislative Council in which he worked as the Assistant Secretary, when there was any complaint against him. On the other hand, his amiable disposition, his eagerness to do justice to the members of this Council and his readiness to work conjointly with the members of this Council have made him so popular a figure in his

service. In every way, he has proved himself a worthy son of a worthy father. I wish him long life and happiness in his well-earned rest.

Khan Bahadur M. ABDUL KARIM: Sir, there are things in this world that oftentimes lie too deep for expression and my memory of Mr. Majumdar, is and will remain for a long time to come as one of these. I have very intimately known him ever since the establishment of this Upper House. I found him a perfect gentleman, a good lawyer and an officer with a good administrative ability. I have got a personal attachment for him for the simple reason, and a very valid reason too, that he received his training under my old friend and patron, the late Mr. S. R. Das, Advocate-General of Bengal and afterwards Law Member of the Viceroy's Council. That in itself is a sufficient guarantee of his depth of legal knowledge and that is the reason why all the members of this House, especially the lawyer members of this House, are particularly grateful to him. On hundreds of occasions, we had to refer to him for interpretation of some legislative rules that we could not properly understand. To that extent, our personal obligation is due to him. We are sorry to have to part with him now but before he leaves us, it is only proper that we should discharge our obligation by simply wishing him long life, happiness and prosperity. I may further add that in these days of Constitutional Reforms, he may even in his retirement be of some help to us in our difficuties hereafter. I express this sentiment not only on behalf of myself but on behalf of the biggest party in this House, the Coalition party, and we hope that we may have the blessings of Mr. Majumdar in his retirement upon this House and its rights and privileges.

Mr. RANAJIT PAL CHOUDHURY: Sir, I rise to associate myself with this motion. Though my Leader has very amply and very eloquently paid to Mr. Majumdar a tribute which he richly deserves, I feel that I would be lacking in my duty if I do not add a few words of appreciation personally. Like you, Sir, I have also been fortunate enough to be acquainted with him for the last decade and a half. When I was a new member of the old Legislative Council, owing to our inexperience we had very often to go to Mr. Majumdar for help and guidance. Sir, I must confess that whenever we went to him, whatever his pre-occuptations might have been, he very courteously and very patiently gave us all the facilities he could. I am, therefore, perhaps the only member in this section of the House who had the pleasure and privilege of his acquaintance and I shall be very sorry to miss him from that seat. I wish him a long life, Sir, and a happy one too.

Dr. RADHA KUMUD MOOKERJI: Sir, it is very graceful on your part, if I may say so, to have performed a duty, albeit a melancholy duty, of recording the appreciation of the House of the valuable

services rendered by Mr. K. N. Majumdar as the Secretary of the Council.

On this occasion, however, I cannot but strike a personal note on account of the long years of friendship with him that I have enjoyed. Born in affluence, as the worthy son of a great father, Mr. Majumdar had opportunities of receiving the highest possible education. He is a Cambridge man, a student of St. John's College, Cambridge. Later on, he was called to the Bar from Gray's Inn in 1907 and afterwards enrolled in the King's Bench Division of the High Court in London. As a friend, I have thought it my duty, Sir, to refer to some details of his career which ought to be recorded. He afterwards joined the Calcutta High Court and practised as a successful Barrister till 1919 when he first entered Government service. He was also a Professor of Law at the Calcutta University Law College for several years. Afterwards, he became engrossed more and more in technical legislative duties. In 1919 he was appointed Assistant Secretary in the Legislative Department—a position which was hitherto reserved for members of the English Bar and English solicitors. He, therefore, established a precedent in favour of the Indianisation of services. His duties consisted in checking, revising and drafting all subsidiary legislations issued by Government. He brought out three volumes of the Bengal Local Statutory Rules and Orders under the control of the Legislative Secretary. On the retirement of Mr. Hutchison, he was appointed First Assistant Secretary to the Legislative Department. In 1933 when Government wanted an officer who had specialised in subsidiary legislative work for the purpose of framing rules under the Calcutta Improvement Trust Act, he was thought to be the competent man for that post and was deputed to the Local Self-Government Department for this work which he finished in much shorter time than was even estimated by Government itself. In 1934, his services were placed under the Government of India, and he was the first non-I.C.S. Indian officer who was sent to that Government for training in legal drafting and other work. In 1935 it was decided that the question of revising the entire Statute law affecting Bengal, as contemplated by the Government of India Act, 1935, should be taken up. Sir James Dunnett pointed out that the work was of a responsible and stupendous character and he required the services of an able and experienced officer. As a reply to this requisition, it was proposed that the Bengal Government might place Mr. Majumdar under the Government of India for this work. In 1935 he was appointed Special Officer for this purpose, and he carried out this work with great credit to himself and benefit to the Government. Now, with the introduction of the Reforms when the Upper House was constituted, we find again the Government taking the right decision to appoint Mr. Majumdar as Secretary of this Council so as to be able to regulate its career in unchartered seas, if I may say so. He was appointed Secretary in 1937 from the very beginning of the working of the

Upper Chamber here and, as has been amply explained by the leaders of different parties in this House, we all know how very satisfactorily and at what a high standard he has been able to carry out his duties as Secretary of the Bengal Legislative Council. In its early stage, its work was very contentious in character as rules and conventions were yet to be built up. At this formative stage in the career of the Upper House, it was very necessary that it should have the help of an experienced and learned officer. Such an officer it found in Mr. Majumdar. It is, therefore, I should say, with a heavy heart that we, members of this Council, part from one who has been, in a literal sense, our guide, philosopher and friend.

No better encomiums could be passed on his work than what has been expressed by you, Sir, as President of the Council, and you represent all parties in this House. I only speak because I happen to be his friend and have enjoyed his friendship for a number of years, and I simply take advantage of his friendship just to place on record—not merely my personal appreciation but also the appreciation of all my friends on this side of the House. Let us wish him a long life and a career of further usefulness in the service of the country which can ill spare such an able and experienced officer as Mr. Majumdar. We, therefore, bid him farewell with all our good wishes.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, as the juniormost member of this House, I wish also to associate myself with what has been said. (MR. RANAJIT PAL CHOUDHURY: How are you the juniormost member?) All the other speakers who have said something on this point are experienced people. To this Council, I am a new man and in this sense, I am the juniormost man.

Sir, the first impression which I got of Mr. Majumdar, I must confess, was rather disappointing. I shall explain at once what I mean. His quiet exterior absolutely deceived me. But I soon discovered my mistake. I found that behind his quiet and innocent exterior, he concealed a very sound mind and a generous heart. It is needless to repeat his qualifications which have been so ably dealt with by the previous speakers. I think he is a silent efficient man and he goes back to his well-earned rest with the best wishes of this House.

Mr. PRESIDENT: The question before the House is: that this Council desires to express its appreciation of the manner in which Mr. K. N. Majumdar has uniformly discharged the duties of his important office during the long period spent by him in the service of this Council as its Secretary and in the Bengal Legislative Council before and after the Montagu-Chelmsford Reforms.

(The motion was agreed to unanimously.)

Mr. PRESIDENT: Before I adjourn the House, I should like to know from the leaders of different parties at what time they would like to sit from the 3rd January next.

Mr. RANAJIT PAL CHOUDHURY: We can sit in the afternoon.

Mr. MESBAHUDDIN AHMED: 3 o'clock will suit us.

Mr. KAMINI KUMAR DUTTA: On behalf of my party, I would suggest 2-15 p.m. but I find that the Coalition Party suggests 3 p.m. We can agree to that also.

Mr. H. C. A. HUNTER: As a matter of fact, early morning would suit my party best because we are all hard-workers and we go to our offices between half past nine and ten and normally we have to work up to 5-30 or 6 or 7 or 7-30 or even 8. We fully realise that we have to accommodate ourselves to the rest of the House. If early morning is not convenient, then we shall have to make some other arrangement. My colleagues suggest 2-15 p.m.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I think it is the intention of the House that when we meet again on the 3rd January, we should sit as long as we can in order to finish the Money-lenders Bill as early as we can.

Now, Sir, at about this time, we should have to adjourn for prayers and again at 5-20. If we sit at 3 o'clock, perhaps the adjournments would be to ofrequent. Sir, I do not know what your view is. If we sit at 3 o'clock, we sit till 4-30 to 4-25 and then adjourn for quarter of an hour and again adjourn at 5-20. I do not know whether you would propose re-assembling after the Magrab prayer. If you do that and sit till 6-30, then 3 o'clock would be all right. But if you do not wish to do that, then possibly 2-15 would not be such an inconvenient time.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, in order to do justice to all the amendments that have been tabled and to allow everybody to have his say, my idea is that we should work a little bit longer than otherwise we would have done. I would like to allow our friends to speak as much as they like and if by speeches they can convert the House to their views, it would be to the best interest of the country. So, what I appeal to you to consider is that we will have to cover about 700 motions in 7 days' time——.

Mr. PRESIDENT: What is your specific suggestion?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: My suggestion is that we should begin from 3 o'clock and sit till 8 o'clock (cries of "No, "no") in order to allow everybody to speak.

Mr. RANAJIT PAL CHOUDHURY: He wants to tire our patience and get the Bill rushed through the House.

Mr. PRESIDENT: Order, order. I adjourn the Council till 2-15 p.m. on Wednesday, the 3rd January, 1940.

Adjournment.

The Council then adjourned till 2-15 p.m. on Wednesday, the 3rd January, 1940.

Members absent.

The following members were absent from the meeting held on the 21st December, 1939:—

(1) Rai Bahadur Keshab Chandra Banerjee.
(2) Rai Bahadur Manmatha Nath Bose.
(3) Mr. Humayun Reza Chowdhury.
(4) Mr. Narendra Chandra Datta.
(5) Mrs. K. D. Rozario.
(6) Khan Bahadur Alhaj Khwaja Muhammad Esmail.
(7) Mr. Mohamed Hossain.
(8) Mr. Humayun Kabir.
(9) Khan Bahadur Muhammad Asaf Khan.
(10) Maulana Muhammad Akram Khan.
(11) Mr. W. B. G. Laidlaw.
(12) Mr. H. G. G. Mackay.
(13) Mr. E. C. Ormond.
(14) Mr. J. B. Ross.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Wednesday, the 3rd January, 1940, at 2-15 p.m. being the seventeenth day of the Third Session, pursuant to section 62 (2) (a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Report of the Bengal Sanskrit Association Enquiry Committee.

105. Rai Bahadur BROJENDRA MOHAN MAITRA: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state—

(*i*) what action, if any, has been taken on the report of the Committee appointed by Government to enquire into the affairs of the Bengal Sanskrit Association;

(*ii*) when was the Committee appointed;

(*iii*) what were the terms of reference;

(*iv*) when was the report submitted; and

(*v*) what were their recommendations?

(*b*) Is it a fact that the Committee recommended, among other things, the separation of the functions of the Principal of the Sanskrit College, Calcutta, and the Secretary of the Bengal Sanskrit Association?

(*c*) Is it a fact that the majority of the persons examined by the Committee expressed themselves in unequivocal terms in favour of separation of the dual functions of the Principal of the Sanskrit College?

The Hon'ble Mr. TAMIZUDDIN KHAN (on behalf of the Hon'ble Mr. A. K. Fazlul Huq): (*a*) (*i*) The report, which is under the consideration of Government, requires careful examination and it will be some time before Government is in a position to pass orders upon it.

(*ii*) In December, 1936.

(*iii*) To enquire into and report upon—

(1) the control and organisation of the Bengal Sanskrit Association;

(2) its jurisdiction; and

(3) its examination system.

(*iv*) In March, 1938.

(*v*) As the recommendations are under consideration, it is considered inadvisable to give publicity to them at this stage.

(*b*) and (*c*) Do not arise.

Muslim Female Training School.

106. Mr. HUMAYUN KABIR: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state if it is a fact that there are four teachers in the practising school attached to the Hindu Female Training School, Calcutta?

(*b*) Is it a fact that there are two teachers in the practising school attached to the Muslim Female Training School, Calcutta?

(*c*) Is it a fact that the Head Mistress of the Muslim Female Training School moved the Government for two more teachers during the last three years?

(*d*) Is it a fact that there are about 40 girls in the said practising school who come from a very poor and illiterate section of the Muslim community?

(*e*) Is it a fact that a class had to be closed down in the middle of the session in 1939, for want of teachers and accommodation in the practising school attached to the Muslim Female Training School, Calcutta?

(*f*) Is it a fact that the Muslim Female Training School was removed to a Hindu locality far from the Muslim neighbourhood? If so, why was this done? Is it a fact that many girls reading in the said practising school left the school for that reason? If so, will the Hon'ble Minister kindly take early steps in the matter to remedy the said grievances of the poor Muslim girls?

The Hon'ble Mr. TAMIZUDDIN KHAN (on behalf of the Hon'ble Mr. A. K. Fazlul Huq): (*a*) to (*f*) I regret that it has not been possible to collect the information in time.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state when the notice of this question was received?

The Hon'ble Mr. TAMIZUDDIN KHAN: I don't remember the date.

Mr. HUMAYUN KABIR: Is it not a fact this Muslim Female Training School in Calcutta is not very far away from the house of the Chief Minister and that enquiries could be made in the course of about a month?

The Hon'ble Mr. TAMIZUDDIN KHAN: I think it is not expected that the Chief Minister would go himself and make enquiries.

Mr. HUMAYUN KABIR: If he is not served by his assistants, has he not to go himself?

(No reply.)

Recruitment of English Professors.

107. Mr. HUMAYUN KABIR: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether the Government of Bengal advertised some time ago for two Professors of English on special terms? If so, what were the terms for Indians and for persons of non-Asiatic domicile?

(*b*) Were any Indian candidates recommended by the High Commissioner for India for any of the posts?

(*c*) What are the qualifications of the Indian and the British candidates recommended by the High Commissioner?

(*d*) What are the grounds on which two British candidates were appointed in preference to a Bengali candidate with similar, if not superior, qualifications?

The Hon'ble Mr. TAMIZUDDIN KHAN (on behalf of the Hon'ble Mr. A. K. Fazlul Huq): (a) Yes, on equal terms, viz., Rs. 550—100/2—1,550.

(*b*) Yes.

(*c*) A statement is laid on the table.

(*d*) The two candidates who were placed first and second in order of merit by the Selection Committee appointed by the High Commissioner, were appointed. The Committee, after hearing the views and inclinations of the Bengali candidate thought that he might be better applied to post-graduate than under-graduate teaching and placed him only third in order of preference.

Statement referred to in the reply to clause (c) of question No. 107, showing the qualifications of the candidates for appointment as Professors of English for the Presidency College.

(1) Bartley, James Orr—

Education—

1917-20—Foyle College, Londonderry.

1920-24—Campbell College, Belfast.

1924-31—Queen's University, Belfast.

1928—B.A., 2nd class Honours in English.

1929—B.A. by thesis in English.

1931—Dufferin Medal for oratory.
President, Literary and Scientific Society.
Vice-President, Dramatic Society.

1930-33—Took the Latin course, but did not take the Honours examination.

Experience—

1929-33—Royal Belfast Academical Institution. Teaching Latin and English.

1933-38—Elphinstone College, Bombay (Government of Bombay). Professor of English. Head of the Department from 1936-38.

1937-38—Secretary, Bombay Board of Film Censors. At present engaged in research for Ph.D. (London). Published works in the Bombay University Journal and "Ireland To-day"

Languages—

Latin, Greek, French, a little Irish and Hindusthani.

Games—

Cricket and squash racquets.

(2) Ghosh, Jyotish Chandra—

Education—

1911—Matriculation, 1st Division, Calcutta University, from Morton Institution, Calcutta.

1913—Intermediate Arts, Calcutta University, from Scottish Churches College.

1915—B.A., Calcutta, from Wesleyan College, Bankura. First class in English Honours.

1917—M.A., Calcutta, from Presidency College, Calcutta. First class in English.

1923—B.Litt., Oxford (Jesus College). For a dissertation on the life and works of Thomas Otway.

1929—D.Phil., Oxford, for a complete edition of the works of Thomas Otway.

Experience—

1917-21—Lecturer in English, Calcutta University.

1924-27—Post-graduate, Department of Arts.

1930-31, 1933 to date—Lecturer in Bengali, Indian Institute, Oxford.

Languages—

French, Bengali.

Games—

Tennis and squash racquets.

Publications also include "Annals of English Literature", Clarendon Press, 1935.

(3) Friend-Pereira, Francis Joseph Charles—

Education—

1915-24—St. Joseph's College, Darjeeling.

1924—Cambridge Higher School Certificate.

1924-25—St. Xavier's College, Calcutta.

1927-30—The Jesuit College, Louvain University, Belgium. Passed L.Ph. examination.

1937—B.A. (Nagpur), 1st Division with distinction in French and Latin. Awarded Korea Gold Medal (appeared as a private candidate).

1937—Diploma de Hautes Studes of the Aix-Marseille University.

1937-39—Christ College, Cambridge. English Tripos, Part I, 1st Class Taking Part II, in May, this year.

Experience—

1930-31—Teaching in English at St. Xavier's College, Calcutta.

1932-33—Teaching English at St. Joseph's College, Darjeeling.

1935-37—Teaching English, History, Latin and Scripture at St. Aloysius High School, Jubbulpore.

Languages—

French, Latin, Hindi and some Italian.

Games—

Cricket, tennis and badminton.

(4) Morrell, Richard Charles Roy—

Education—

1917-20—Highgate Junior School.

1920-27—Highgate School. School Prefect and House Captain.

1927-31—Peterhouse, Cambridge.

1929—First Class, English Tripos, Part I. College Prizeman.

1929-31—Senior Scholar of College.

1929-30—Read Anthropology without taking examination.

1931—Second Class, Division I. English Tripos, Part II.

1930-31—President of Perne and Parnassus Societies. Criticisms, reviews, and articles in the "Cambridge Review".

Experience—

1931-34—Lecturer in English language and Literature, Helsingfors University, Finland.

1934-36—Lecturer in English language and Literature, Raffles College, Singapore.

1937—Temporary Senior English Master, Doncaster Grammar School.

1937 to date—English Master, Wirral Grammar School, Bebington, Cheshire.

July, 1937—Appointed Professor of English, Wuhan University, China. Appointment resigned on outbreak of Sino-Japanese war immediately afterwards.

Languages—

French and German, slight Chinese and Cantonese.

Games—

Athletics, swimming, water-polo and tennis.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state which of the two candidates have been appointed because the first two names are Mr. Bartley and Dr. Ghosh?

The Hon'ble Mr. TAMIZUDDIN KHAN: The first and the third, Sir.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state why in that case the second man was passed over?

The Hon'ble Mr. TAMIZUDDIN KHAN: The names here have not been arranged in order of merit.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state whether the names of successful candidates are Mr. J. O. Bartley and Mr. F. J. C. Friend-Pereira?

The Hon'ble Mr. TAMIZUDDIN KHAN: Yes, Sir.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state why a person who got only Second Class Honours from a University which is not very well-known was preferred to a man who was granted the Doctorate from Oxford which has certainly a far higher status than Belfast?

The Hon'ble Mr. TAMIZUDDIN KHAN: First of all, Sir, the Selection Committee gave preference to that man; secondly, the Public Service Commission who were consulted on the matter recommended these two men.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state why a person who has not yet taken the final examination of the Tripos in Cambridge at all but has only taken the first part which is not regarded as equivalent even to the B.A. degree was preferred to a man who was a First Class in B.A. and M.A. in English and obtained Doctorate in English?

The Hon'ble Mr. TAMIZUDDIN KHAN: I will give the same answer to this question as I gave to the last question.

Mr. HUMAYUN KABIR: Is it the Public Service Commission who made the recommendation?

The Hon'ble Mr. TAMIZUDDIN KHAN: Yes, Sir.

Mr. HUMAYUN KABIR: Are we to understand that in the opinion of the Public Service Commission of Bengal a person who has not completed his course at Cambridge and has taken only the first part which Indian students are not required to take at all, is a better candidate than the one who has completed the course and has teaching experience in colleges and universities?

The Hon'ble Mr. TAMIZUDDIN KHAN: I do not know much about these things, but I have already stated that the Committee appointed by the High Commissioner considered these two candidates not only suitable but better than the other candidates who applied, and the Public Service Commission of Bengal also entirely agreed with that view.

Mr. HUMAYUN KABIR: Can we not infer from the fact that the name of Dr. Ghose was sent that he was considered fit by the High Commissioner's office in London? Otherwise, his name would not have been sent at all?

The Hon'ble Mr. TAMIZUDDIN KHAN: He was considered fit, Sir.

Mr. HUMAYUN KABIR: If he was considered fit, granting other things being equal, even granting that he was not preferred by the Selection Committee, should he not be appointed in preference to persons who are non-Bengalis?

The Hon'ble Mr. TAMIZUDDIN KHAN: I have nothing further to add. I have already made the position quite clear.

Cross-words competition.

108. Khan Bahadur Maulvi MD. IBRAHIM: (*a*) Is the Hon'ble Minister in charge of the Home Department aware that a sort of gambling called "Cross-words competition" has been introduced in Calcutta for some time past?

(*b*) Is it not a fact that a large number of our countrymen are being cheated through such gambling?

(*c*) Will any legislation be undertaken at the earliest opportunity to stop this gambling?

(*d*) If not, will any steps be taken to stop this gambling by promulgating an Ordinance?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): (*a*) I am not aware that it can really be termed gambling.

(*b*) I do not think so.

(*c*) and (*d*) No.

Post of Office Superintendents of district offices.

109. Khan Bahadur ATAUR RAHMAN (on behalf of Khan Bahadur M. Shamsuzzoha): (*a*) Will the Hon'ble Minister in charge of the Revenue Department be pleased to state how many clerks have been empanelled for the post of Office Superintendents of the district offices including Calcutta Collectorate and how many of them are Mussalmans?

(*b*) Have any appointments actually been made after the Commissioners' Conference at Darjeeling in October, 1939? If so, how many? If not, how many appointments will be made in 1939-40?

(*c*) How many of them are or will be Mussalmans?

MINISTER in charge of the REVENUE DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (a) This list, containing the names of Government servants recommended for promotion, is a confidential document and its contents cannot be divulged.

(*b*) One appointment has been made: the number of vacancies that will occur in 1939-40 is uncertain.

(*c*) A Muslim has been appointed to the only vacancy that has occurred since October, 1939.

Khan Bahadur ATAUR RAHMAN: In reply to paragraph (*a*). the Hon'ble Minister says that list of names is a confidential document and its contents cannot be divulged. The question did not ask for the list of names; but wanted informtaion about the number of clerks who have been empanelled for the post of Office Superintendent? May we know the number of men who are empanelled?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: If the number is disclosed, the names will be known. So, virtually the whole thing is confidential.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state by what mysterious process a statement of the number will give us a knowledge of the names of the persons?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The persons interested know very well how many are at all eligible for these appointments, and if the numbers are stated they will at once find out who are the persons included in that list.

Khan Bahadur ATAUR RAHMAN: What will be the total number of clerks who will be eligible for appointment as Office Superintendents in the whole of the Bengal Collectorates?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The point is not about the total number of clerks. The point is about the list. The question is—"Will the Hon'ble Minister in charge of the Revenue Department be pleased to state how many clerks have been empanelled for the post of Office Superintendent of the District offices including Calcutta Collectorate and how many of them are Mussalmans?" If the numbers are disclosed, each district will at once come to know which are the names included in the panel.

Khan Bahadur ATAUR RAHMAN: The question does not want information district by district. There may be 5,000 clerks of which only 50 may be empanelled. We want to know only the number.

Mr. PRESIDENT: He wants only the total number.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: If the hon'ble member only wanted the total number and if that will satisfy him, we have no objection. But the Revenue Department thought that the reply giving the total number would have no meaning unless it referred to each district separately. If the hon'ble member wants only the total number, I would ask for notice.

Khan Bahadur ATAUR RAHMAN: The purpose of the question had been made clear in the last sentence, viz., how many of them are Mussalmans. We do not want the names of any particular person. May we ask the Hon'ble Minister to reply to this question later on?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: If the question is put, Government certainly will answer it.

The Land Revenue Commission.

110. Mr. RANAJIT PAL CHOWDHURY: Will the Hon'ble Minister in charge of the Revenue Department be pleased to state—

(*a*) the names of the members of the Land Revenue Commission who went abroad during the last spring season with a view to studying the land system of the different European countries;

(*b*) the countries which they have visited during the course of their studying and research abroad;

(*c*) the person or persons whom they have seen and examined as representatives of the land systems they intended to study;

(*d*) the period of time which they have spent in each European country for the purpose;

(*e*) the countries which have presented some analogies to the land systems prevailing in Bengal;

(*f*) the total amount that has already been expended on the pay, passage and allowances of the members who travelled abroad;

(*g*) the names of the members who have visited the different Indian provinces in order to study the land systems there;

(*h*) the person or persons whom they have seen and examined in order to obtain an exposition of the different land systems they wanted to study;

(*i*) the period of time which each has spent in the provinces;

(*j*) how long more it will take the Commission to finish their labours on study and research; and

(*k*) when is the report expected to be completed?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) No member of the Commission went abroad with a view to studying the land systems of European countries.

(*b*) to (*f*) Do not arise.

(*g*) and (*h*) Statements are laid on the Table.

(*i*) In Madras from 7th to 13th January, 1939. In the Punjab and the United Provinces from 18th November to 11th December, 1939.

(*j*) and (*k*) It is expected that the report will be completed by the end of March, 1940.

Statement referred to in the reply to clause (g) of question No. 110.

NAMES OF MEMBERS WHO VISITED OTHER PROVINCES.

Madras, Punjab and United Provinces.

(1) Sir Francis Floud, K.C.B., K.C.M.G. (*Chairman*).
(2) M. O. Carter, ESQ., M.C., I.C.S. (*Secretary*).
(3) Sir F. A. Sachse, C.S.I., C.I.E. (Part-time in the Punjab).
(4) Sir Bejoy Chand Mahtab, G.C.I.E., K.C.S.I., I.O.M., Maharajadhiraja Bahadur of Burdwan.
(5) Dr. Radha Kumud Mukherjee, M.A., P.R.S., PH.D., M.L.C.
(6) Khan Bahadur M. A. Momin, C.I.E.
(7) Khan Bahadur Maulvi Hashem Ali Khan, M.L.A.

Madras and United Provinces.

(8) Khan Bahadur Saiyed Muazzammuddin Hossain, M.L.C.

Punjab and United Provinces.

(9) Mr. Anukul Chandra Das, M.A., B.L., M.L.A.
(10) Mr. Nuruddin Ahmed.

United Provinces only.

(11) Mr. Abul Quasem.

Statement referred to in the reply to clause (h) of question No. 110.

PLACES VISITED AND PERSONS EXAMINED IN MADRAS.

Madras.

(1) Revenue Minister (the Hon'ble Mr. T. Prakasan).
(2) Revenue Secretary (Mr. B. G. Holdsworth, I.C.S.).
(3) Registrar of Co-operative Societies.
(4) Director of Agriculture.

Chingleput.

(1) A leading lawyer of the District Munsiff's Court at Poonemalee.
(2) Mr. Narasinha Chariar, Advocate.
(3) Officials.

Vizagapatam.

(1) Sri B. Venkatapathi Raju, C.I.E.

(2) Sri Dewan Bahadur D. Sriramasastry, M.L.A. (Standing Counsel to many zemindars).

(3) Sir D. V. Ramaswamy Pantulu, M.L.A. (Congress).

(4) Sri Rao Bahadur A. Jagannadhrao Pantulu, B.A., B.L. (retired Deputy Collector), Estate Manager, Vizianagram Estate.

(5) Sri M. Krishnarao Naidu, B.A., Deputy Collector in charge of the Records-of-right and settlement of rent operations under the Estates Land Act, Pathapatnam.

(6) Sri Joseph Reddi, B.A. (Deputy Collector), Dewan of Bobbili Estate.

In addition to the above, a number of tenants were examined in the villages which the Commission visited.

PLACES VISITED AND PERSONS EXAMINED IN PUNJAB.

Lahore, Amritsar, Jhelum and Lyallpur districts.

(1) Mr. C. C. Garbett, C.S.I., C.I.E., I.C.S., C.M.G., F.R.G.S., Financial Commissioner, Punjab.

(2) The Hon'ble Sir Sunder Singh Majithia, Revenue Minister, Punjab.

(3) Director of Land Records.

(4) Khan Bahadur Shaik Khurshed Mahummad, retired Deputy Commissioner and Member, Land Revenue Committee, Punjab.

(5) Director of Industries.

(6) Deputy Registrar, Co-operative Societies.

(7) Director of Agriculture.

(8) Assistant Registrar, Consolidation of Holding

(9) Mr. Brayne, C.I.E., I.C.S., Financial Commissioner, Development.

(10) Dr. Sir G. C. Narang, ex-Minister, Punjab Government.

The Commission visited several villages in each of the above districts and examined a number of villages in addition to the officials and non-officials at district headquarters.

PLACES VISITED AND PERSONS EXAMINED IN THE UNITED PROVINCES.

Lucknow and Aligarh, Agra, Jhansi and Benares districts.

(1) Mr. Waugh, I.C.S., Settlement Commissioner.

(2) Mr. Cooke, I.C.S., Revenue Secretary.

(3) Mr. Morsh, C.S.I., C.I.E., I.C.S., Adviser to the Governor, Revenue.

(4) Mr. Walley, I.C.S., Debt Legislation Officer.

(5) Mr. Sahay, I.C.S., Deputy Secretary, Agriculture Department.

(6) Mr. Maya Das, Deputy Director, Agriculture Department.

(7) Mr. Tarakeshwar Prasad, Assistant Director of Land Records.

(8) Khan Bahadur A. Aziz, Irrigation Department.

(9) Registrar, Co-operative Societies.

In the four districts visited, the Commission met officials and non-officials at district headquarters; it visited several villages in each district and examined a number of villagers.

Rented houses of the Calcutta Improvement Trust.

111. Mr. RANAJIT PAL CHOWDHURY: (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state how many Ministers are residing in the rented houses of the Calcutta Improvement Trust and what are their names?

(*b*) What is the amount of rent that each of the Ministers pay monthly for their house?

(*c*) Is it a fact that the rent of these houses have been much reduced on the alleged consideration that the houses are in a dilapidated condition?

(*d*) Did the Calcutta Improvement Trust undertake to make repairs at their own cost to these houses?

(*e*) What amounts were spent for each of the houses occupied by the Ministers?

(*f*) Will Government state when the houses were fully repaired and if normal rate of rent are demanded from the Ministers?

The Hon'ble Mr. TAMIZUDDIN KHAN (on behalf of the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca): (*a*) to (*f*) Steps have been taken for the collection of the information which is not yet available.

Mr. RANAJIT PAL CHOUDHURY: Can we expect the answer to this question in this session?

The Hon'ble Mr. TAMIZUDDIN KHAN: I think so, Sir.

Mr. NARESH NATH MOOKERJEE: May I know from the Hon'ble Minister whether it is not a fact that the Nawab Bahadur of Dacca is himself a tenant in one of these houses?

The Hon'ble Mr. TAMIZUDDIN KHAN: I think so, Sir. That is speaking from my own personal knowledge.

Mr. NARESH NATH MOOKERJEE: That being so, we cannot understand why the information was not available to him when he is himself residing in one of these houses?

The Hon'ble Mr. TAMIZUDDIN KHAN: The information referred to is wanted not with reference to one Minister but many Ministers.

Formation of an Anti-Malaria Society in the village of Sankarpur.

112. Khan Bahadur ATAUR RAHMAN (on behalf of Mr. K. C. Roy Chowdhury): (*a*) Will the Hon'ble Minister in charge of the Public Health and Medical Department be pleased to state if it is a fact that on the 25th March, 1936, the then Hon'ble Minister in charge of the Local Self-Government Department started on the floor of the Legislative Council that the Government approached the villagers of Sankarpur, police-station Narail, district Jessore, for forming an Anti-Malaria Society, but the villagers refused to do so?

(*b*) If so, will the Government be pleased to enlighten the House on the following facts:—

(*i*) what are the names of the villagers whom the Government approached;

(*ii*) what is the date of approachment;

(*iii*) who approached; and

(*iv*) what is the name and designation of the person who approached?

MINISTER in charge of the PUBLIC HEALTH and MEDICAL DEPARTMENT (the Hon'ble Mr. Tamizuddin Khan): (*a*) and (*b*) From the reports obtained at the time, it appears that Babu Promode Ranjan Das Gupta, a Sanitary Officer of the District Board of Jessore, advised the villagers to form an Anti-Malaria Society but there was no response. The other information wanted will take time to collect and cannot be given during this session.

The Debt Settlement Board.

113. Rai Sahib INDU BHUSAN SARKAR (on behalf of Rai Bahadur Manmatha Nath Bose): (*a*) Will the Hon'ble Minister in charge of the Co-operative Credit and Rural Indebtedness Department be pleased to state—

(*i*) the number of Debt Settlement Boards which have been formed in the district of Midnapore;

(*ii*) the total number of applications filed by the debtors as well as by the creditors in the said district;

(*iii*) the total number of suits and execution cases stayed in the courts and withdrawn by the Boards; and

(*iv*) the total number of such suits and execution cases disposed of by them?

(*b*) Will the Hon'ble Minister be pleased to state if he has enquired as to how the provisions of the Act have so far worked in the district of Midnapore?

(*c*) Will the Hon'ble Minister be pleased to state the number of Co-operative Societies—agricultural and non-agricultural—in each district of the Burdwan Division?

(*d*) Will the Hon'ble Minister be pleased to state what is the amount of audit fees realised from Co-operative Societies in the district of Midnapore during each of the years 1932-33, 1933-34, 1934-35, 1935-36, 1936-37 and 1937-38?

(*e*) Was any report about the dishonesty of any Board in the Burdwan Division or any member of any Board in the said Division received by the Hon'ble Minister? If so, will he please mention the name of the Board and the member and the steps taken?

MINISTER in charge of the CO-OPERATIVE CREDIT and RURAL INDEBTEDNESS DEPARTMENT (the Hon'ble Mr. Mukunda Behary Mullick): (*a*) to (*e*) I regret that it was not possible to collect all the detailed information in the time at my disposal: the information will be supplied as soon as it is available.

The Malibari Debt Settlement Board in the Gaibandha subdivision.

114. Rai Sahib INDU BHUSAN SARKAR (on behalf of Rai Bahadur Keshab Chandra Banerjee): (*a*) Will the Hon'ble Minister in charge of the Co-operative Credit and Rural Indebtedness Department be pleased to state whether it is a fact that case No. 2 of 1937 in the Malibari Debt Settlement Board in the Gaibandha sub-division of the district of Rangpur is still pending?

(*b*) If the answer to paragraph (*a*) be in the affirmative, will the Hon'ble Minister be pleased to state as to what action he proposes to take against the Board for disobeying the Government circular making it incumbent upon every Debt Settlement Board to dispose of within three months all applications regarding arrears of rent?

(*c*) What steps, if any, does the Hon'ble Minister propose to take in order to expedite the proceedings pending before the Debt Settlement Boards?

(*d*) Is it a fact that the Debt Settlement Boards in the Gaibandha subdivision of the Rungpore district generally grant 8 to 10 years' instalments in respect of petitions regarding arrears of rent?

(*e*) If the answer to paragraph (*d*) be in the affirmative, does the Hon'ble Minister propose to enquire into the matter and take steps so that not more than 3 or 4 years' instalments are allowed in cases of arrears of rent?

(*f*) Is it a fact that in case No. 32 of 1937 before the Boali Debt Settlement Board in the Gaibandha subdivision, Rangpur, 10 years' instalments for arrears of rent were allowed?

(*g*) Is it also a fact that in cases Nos. 25 of 1937 and 27 of 1937 before the said Boali Debt Settlement Board, 8 years' instalments for arrears of rent were allowed?

(*h*) Is it a fact that in case No. 30 of 1937 before the same Debt Settlement Board 9 years' instalments for arrears of rent have been allowed, and that in cases Nos. 57 of 1937, 112 of 1938, 23 of 1938 of the same Board, the instalments for arrears of rent have been granted for 9 years, 7 years and 8 years, respectively?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: (*a*) to (*h*) I regret that it was not possible to collect all the detailed information in the time at my disposal: the information will be supplied as soon as it is available.

Preparations of quinine and quinine tablets.

115. Begum HAMIDA MOMIN: (*a*) Is the Hon'ble Minister in charge of the Public Health and Medical Department aware that according to the test made by the Biochemical Standardisation Laboratory, Calcutta, it has been found that the various brands and preparations of quinine and quinine tablets sold in the market and used by the hospitals are deficient in its active ingredients and considerably below the normal strength?

(*b*) Is it not a fact that bad quality of quinine is the cause of the large percentage of failures of cure in malaria cases?

(*c*) If the answer to part (*b*), is in the affirmative, will the Hon'ble Minister please state what action the Government is taking to ensure the supply of quinine of proper strength to the public?

The Hon'ble Mr. TAMIZUDDIN KHAN: (*a*) A few samples of quinine sulphate and quinine bihydrochloride and a few brands of quinine tablets of Indian origin were examined in the Biochemical Standardisation Laboratory and were found to be "below standard". No general conclusion can yet be drawn, as most of the samples were not in sealed and original packings and as there was no satisfactory statement of the details which are considered essential.

(*b*) Government have no information in this matter.

(*c*) Does not arise.

Begum HAMIDA MOMIN: With reference to answer (*a*), will the Hon'ble Minister be pleased to state how many samples were examined?

The Hon'ble Mr. TAMIZUDDIN KHAN: That information I have not got. A large number were examined; I cannot give the exact number.

Begum HAMIDA MOMIN: Is the Hon'ble Minister aware that they examined about 125 samples not only bihydro-chloride quinine tablets but various categories of quinine preparation, such as quinine sulphate mixtures, quinine sulphate powders and tablets, quinetum, quinine ethyl carbohanate, tincture quinine ammoniata, quinine tennate, etc. etc.? So, does he consider that the examination of 125 samples was not enough?

The Hon'ble Mr. TAMIZUDDIN KHAN: I have said that a large number of samples were examined but only a few were found to be below standard. So far as examination is concerned, the number was a large one but I cannot give the exact number.

Begum HAMIDA MOMIN: Out of a total of 75 stock solutions of quinine sulphate secured from city or mufassal hospitals or dispensaries, only 12 (16 per cent) were found to contain the stated strength of quinine sulphate. As many as 49 were below strength, of which 21 contained less than 50 per cent of the active ingredient. Two stock mixtures, claiming to contain five grains of quinine sulphate per ounce, did not contain even a trace of the drug. Curiously enough, a few samples also contained a higher percentage of quinine than that stated on the lable.

The Hon'ble Mr. TAMIZUDDIN KHAN: That may be so.

Begum HAMIDA MOMIN: In view of the deficiency in quinine and quinine tablets as sold in the market, is Government prepared to make an enquiry into this and try to do something so that hospitals and dispensaries are supplied with quinine of proper strength?

The Hon'ble Mr. TAMIZUDDIN KHAN: Nothing possibly can be done without a law for the control of drugs. Honourable members may be aware that a resolution has been adopted by this House requesting the Central Government to legislate on the point and when that law is passed, I think proper action will be taken.

Laying on the Table of Three Government Bills passed by Assembly.

The SECRETARY (Mr. S. K. D. Gupta): Sir, the following messages have been received from the Secretary, Bengal Legislative Assembly:—

1. "(1) In conformity with the requirements of rule 68 of the Bengal Legislative Assembly Procedure Rules, I am directed to send herewith a signed copy of the Bengal Tenancy (Third Amendment) Bill, 1939, as passed by the Assembly on the 12th December, 1939, together with 150 spare copies of the Bill and to state that the Bill was not referred to a Select Committee of the Assembly before it was passed.

(2) I am further to state that the Bengal Tenancy (Third Amendment) Bill, 1939, was sponsored by the Hon'ble Sir Bijoy Prasad Singh Roy.

(3) A copy of the Statement of Objects and Reasons is enclosed".

II. "(1) In conformity with the requirements of rule 68 of the Bengal Legislative Assembly Procedure Rules, I am directed to send herewith a signed copy of the Bengal Public Demands Recovery

(Amendment) Bill, 1939, as passed by the Assembly on the 12th December, 1939, together with 150 spare copies of the Bill and to state that the Bill was not referred to a Select Committee of the Assembly before it was passed.

(2) I am further to state that the Bengal Public Demands Recovery (Amendment) Bill, 1939, was sponsored by the Hon'ble Sir Bijoy Prasad Singh Roy.

(3) A copy of the Statement of Objects and Reasons is enclosed".

III. "(1) In conformity with the requirements of rule 68 of the Bengal Legislative Assembly Procedure Rules, I am directed to send herewith an authentic copy of the Eastern Frontier Rifles (Bengal Battalion Amendment) Bill, 1939, as passed by the Assembly on the 19th December, 1939, together with 150 spare copies of the Bill and to state that the Bill was not referred to a Select Committee of the Assembly before it was passed.

(2) I am further to state that the Eastern Frontier Rifles (Bengal Battalion Amendment) Bill, 1939, was sponsored by the Hon'ble Khwaja Sir Nazimuddin.

(3) A copy of the Statement of Objects and Reasons is enclosed".

Sir, I herewith lay on the Table the following Bills, passed by the Bengal Legislative Assembly at its meetings held on the 12th December, 1939, and 19th December, 1939, respectively, namely:—

(1) The Bengal Tenancy (Third Amendment) Bill, 1939.

(2) The Bengal Public Demands Recovery (Amendment) Bill, 1939.

(3) The Eastern Frontier Rifles (Bengal Battalion Amendment) Bill, 1939.

The Bengal Money-lenders Bill, 1939.

Mr. PRESIDENT: The House will now resume further consideration of the Bengal Money-lenders Bill, 1939.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, at the outset, I would request you to postpone the discussion on the point of order that was raised by my friend, Rai Sahib Indu Bhusan Sarkar, questioning the competency of the Provincial Legislature to legislate on money-lending by banks. I hope, we will be prepared tomorrow to argue the point. So, to-day we may take up other items.

Rai Saheb INDU BHUSAN SARKER: Sir, we have not been able to follow what the Hon'ble Minister has said. Are we to understand that he proposes that the point of order raised by me will be taken up to-day or hereafter?

Mr. PRESIDENT: The issue raised in the point of order will be discussed on a later date. The Hon'ble Minister is not prepared to-day to argue on it. The point of order, I think, relates to paragraphs (*d*) and (*e*) of sub-clause (*13*) of clause 2 of the Bill. So, we shall take up other items. For the present, I am postponing consideration of these two paragraphs of sub-clause (*13*) of clause 2.

We will now take up amendment No. 99 which deals with paragraph (*f*) of sub-clause (*13*) about "commercial loans".

Mr. AMULYADHONE ROY: Sir, what will happen to my amendment regarding co-operative societies?

Mr. PRESIDENT: That comes under paragraph (*d*) of sub-clause (*13*), but we have postponed consideration of that paragraph for the time being.

We now take up the next amendment.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I beg to move——

Mr. PRESIDENT: Order, order. The motion stands in the name of the Hon'ble Minister. I think, it is desirable that it should be moved by Mr. Mesbahuddin Ahmed because the Hon'ble Minister should not amend his own proposition.

Mr. MESBAHUDDIN AHMED: Sir, I beg to move that in sub-clause (*13*) of clause 2 of the Bill, in paragraph (*g*), after the word "under" appearing in line 9, the words "the provisions of" be inserted.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*13*) of clause 2 of the Bill, in paragraph (*g*), after the word "under" appearing in line 9, the words "the provisions of" be inserted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*13*) of clause 2 of the Bill, in paragraph (*g*), after the word "under" appearing in line 9, the words "the provisions of" be inserted.

(The amendment was agreed to.)

Rai Sahib INDU BHUSAN SARKER: Sir, I beg to move that in sub-clause (*13*)(*g*) of clause 2 of the Bill, the words "if such loan is subject to the condition of repayment by instalments extending over a period of ten years or more", in lines 10 to 12, be omitted.

By this provision, exclusion from the scope of the Bill of loans advanced to parties for the purpose of building houses in municipal areas, has been made conditional on the fact that payment by instalments should extend over a period of 10 years or more. Such a provision will very much discourage in future the practice of bankers or private money-lenders to assist middle-class families in building houses in municipal areas. For if they do, their chances of an early realisation are nil, as in order to avoid the inclusion of these transactions within the scope of the Bill, they will have to wait for a period of not less than 10 years. So, in my opinion, this amendment should be accepted.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*13*)(*g*) of clause 2 of the Bill, the words "if such loan is subject to the condition of repayment by instalments extending over a period of ten years of more", in lines 10 to 12, be omitted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose this motion. The reason for my opposition is that we are actually excluding loans of the kind mentioned. If the loan that has been advanced will not serve the purpose for which exception is being made, then it is useless to make an exception. Sir, in order to facilitate the construction of buildings by the poorer section of the population, we have provided that if they borrow any money from banks or other persons, they should have some special terms offered to them. So, if really speaking, it is not a building advance which ought to be paid by instalments but an ordinary loan, then I do not think that there will be any justification for including that sort of loan. Under the circumstances, I think we are not entitled to exclude it from the operation of the Bill, but that will precisely be the case if the present amendment is accepted.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*13*)(*g*) of clause 2 of the Bill, the words "if such loan is subject to the condition of repayment by instalments extending over a period of ten years or more", in lines 10 to 12, be omitted.

(The amendment was negatived.)

Mr. LALIT CHANDRA DAS: Mr. President, Sir, may I make a verbal alteration in my amendment?

Mr. PRESIDENT: Yes, only verbal alteration will be allowed.

Mr. LALIT CHANDRA DAS: I beg to move that in sub-clause (*13*)(*g*) of clause 2 of the Bill, after the words "a period of ten years or more" appearing in the last line, the words "and do not carry interest at not more than 9 per cent. simple per annum", be inserted.

Paragraph (*g*) of sub-clause (*13*) will then read as follows:—

"(*g*) A loan advanced to any person for the purchase or construction of a house or for the construction of a house together with the purchase of the site thereof, within the limits of the area defined by clause (*11*) of section 3 of the Calcutta Municipal Act, 1923, or of any area which has been or may hereafter be constituted a municipality under the Bengal Municipal Act, 1932, if such loan is subject to the condition of repayment by instalments extending over a period of ten years or more and do not carry interest at not more than 9 per cent. simple per annum".

Mr. HAMIDUL HUQ CHOWDHURY: What is the object of this amendment?

Mr. LALIT CHANDRA DAS: The interest should not exceed 9 per cent.

Khan Bahadur NAZIRUDDIN AHMAD: On a point of order, Sir. May I point out that this amendment has much to do with the previous amendment. They are absolutely similar, the difference being only with regard to rate. I suggest that in view of the fact that my amendment has been left over, this also may be left over.

Mr. PRESIDENT: Both these amendments will be taken up later.

Rai KESHAB CHANDRA BANERJEE Bahadur: Sir, I beg to move that in sub-clause (*13*) of clause 2 of the Bill, after paragraph (*g*), the following new paragraph be inserted, namely:—

"(*h*) any amount advanced by way of friendly accommodation".

"*Explanation.*—Supply of goods on credit and a bond bearing interest executed for that purpose is not a loan."

Sir, the object of this amendment is plain enough. So, I do not desire to make any speech in this connection.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*13*) of clause 2 of the Bill, after paragraph (*g*), the following new paragraph be inserted, namely:—

"(*h*) any amount advanced by way of friendly accommodation".

"*Explanation.*—Supply of goods on credit and a bond bearing interest executed for that purpose is not a loan."

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose this amendment.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*13*) of clause 2 of the Bill, after paragraph (*g*), the following new paragraph be inserted, namely:—

"(*h*) any amount advanced by way of friendly accommodation".

"*Explanation.*—Supply of goods on credit and a bond bearing interest executed for that purpose is not a loan."

(The amendment was negatived.)

Mr. NARESH NATH MOOKERJEE: Sir, I beg to move that in sub-clause (*13*) of clause 2 of the Bill, after paragraph (*g*), the following new paragraph be inserted, namely:—

"(*h*) any loan or loans due to a widow who on the date on which the Act comes into force, did not own any other property provided that the principal amount of the loan or loans does not exceed rupees two thousand."

Sir, the intention of his Bill is really to give relief to the borrowers and to save them from the extortion of private money-lenders. But this Bill is likely to operate very harshly on certain communities and poor money-lenders, like widows, for instance. It is well known, Sir, that poor widows make a small living out of the little money they have by lending the same generally at a very low rate of interest to parties who are sure to return the money. I do not think that any extortion is ever made by this class of money-lenders. In many cases, the widows have no other property. If they are not excluded from the operation of this Bill, it is likely to tell very harshly on them. My idea is really to save the poor widows provided that the principal amount of the loan does not exceed rupees two thousand. They are small lenders, and I do not suppose that if this amendment is accepted by Government it will really nullify the principle of the Bill. I, therefore, appeal to the Hon'ble Nawab Bahadur to kindly see if he could accept this small amendment as the principle on which this Bill is framed is not in any way prejudiced by the acceptance of this amendment.

Mr. PRESIDENT: Amendment moved: that in sub-clauce (*13*) of clause 2 of the Bill, after paragraph (*g*), the following new paragraph be inserted, namely:—

"(*h*) any loan or loans due to a widow who on the date on which the Act comes into force, did not own any other property provided that the principal amount of the loan or loans does not exceed rupees two thousand."

Dr. RADHA KUMUD MOOKERJEE: Sir, I rise to add my humble voice in support of the amendment which has been just moved, and I hope that our voice will reach the ears of Government which are apparently sealed against the voice of reason. There have been many exemptions granted: in fact, there has been an elaborate list of exemptions under clause 2. The amendment proposed has been brought forward for the sake of helping the most helpless section of humanity. In the first place, I hope that the Government will exhibit a spirit of chivalry with reference to women; and secondly it is not merely the case of womanhood but it is also the case of a helpless section of womanhood, viz., widows. Of course, it is conceivable to suppose that there may be rich widows who are out for profiteering by the pursuit of money-lending as a business through their agents. In order to meet that kind of objection, we have rightly here in this amendment laid down the limit whereby the rich widow will be excluded from protection. Here, we say that the principal amount of the loan must not exceed rupees two thousand, thereby showing that the amendment really seeks to help the poor widow. who under the old social order and before these laws were under-going a revolutionary change, had invested her all with some friend in the neighbourhood who would guarantee the payment of some small sums per month for her livelihood. Besides this limit of rupees two thousand, there is also another very stringent provision the deletion of which would not affect in any way the main purpose of the Bill. That provision is to the effect that the widow must not own any other property. This is, I should think, rather a sweeping concession given to Government. The widows may have some property in the shape of some ornaments. I do not know whether even that will come under this clause, but at any rate we have gone to the extreme possible limit of concession in this regard, and I do hope that Government will not steel their heart against sympathy with those sections of the people who are admittedly helpless. I, therefore, hope that at least this amendment will be carried unanimously in this House.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I rise to oppose the amendment. The question is not one of sympathy for the widows. It is a question of making a choice in the matter of distributing our sympathy between the debtor and the creditor. The object of the Bill is to give relief to debtors, and we cannot prefer the creditor, although she may be a widow, in preference to the debtor.

Dr. RADHA KUMUD MOOKERJEE: Why are so you sympathetic to debtors?

Khan Bahadur NAZIRUDDIN AHMAD: Because I am little better than a debtor myself.

With regard to my hon'ble friend, Dr. Mookerji, he has a right to marry anything like 25 wives or more. If a gentleman having 25 wives dies, he would leave 25 widows; and between them these 25 widows would carry on a money-lending business of Rs. 50,000 at the rate of Rs. 2,000 each and thus evade the provisions of the Bill.

Dr. RADHA KUMUD MOOKERJI: Not as a joint family.

Khan Bahadur NAZIRUDDIN AHMAD: I am assured by a very experienced member that this often happens. Khan Bahadur Ataur Rahman, who was for long an Income-tax official, tells me that his experience was that rich persons often distributed their investments in the names of their widows.

Mr. RANAJIT PAL CHOUDHURY: That was under the old Act and not under the new Act.

Khan Bahadur NAZIRUDDIN AHMAD: The practice is still current. The object is to avoid the provisions of the Income-tax Act.

Mr. LALIT CHANDRA DAS: They cannot avoid the provisions of the new Act.

Khan Bahadur NAZIRUDDIN AHMAD: You can never prevent evasions. This amendment will provide a big loophole, and it ought to be stopped. If this amendment is accepted, the effect will be that money would be lent in the names of widows and money-lenders will thereby avoid the provisions of the Act. That is why we cannot show our sympathy for the widows. We should remember that debtors might themselves be widows.

Then, Sir, under the British law, males and females should be treated alike. I do not know why ladies who have lost their husbands should be preferred to gentlemen who have lost their wives. (Laughter.)

In these circumstances, I offer my humble opposition to this amendment.

The Hon'ble Nawab MUSHARUFF HOSSAIN, Khan Bahadur: Sir, Dr. Mookerjee has accused us first of being persons without reason, secondly that we are unsympathetic and thirdly, I do not know what epithet he wanted to apply to us.

My friend has just received the reason for this provision from Khan Bahadur Naziruddin Ahmad. When this matter was discussed at the first stage, the Congress Group thought that a person or a widow with a capital of just Rs. 500 should be exempted from the operation

of the Bill. After mature consideration, it was decided unanimously that that may do more harm than good. So, the matter has been well thrashed out in the other place. Now, my friend, the Khan Bahadur has argued that there may be 10 or 20 widows of one person. This is not a reason at all for incorporation of this provision, for I do not believe that the society will be so mean or low that it will be composed of only widows. That is not the point. The real point is that the attempt to exempt the widows might bring in complications. Money may not belong to a widow but her name may be used to defraud the public. After all, in private affairs, it is not very difficult to control the money-lenders.

Dr. RADHA KUMUD MOOKERJI: Supposing cases of fraud are less numerous.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: So, in order to simplify matters, the Select Committee decided that we should not bring in such complications.

What we want is that our people must be thoroughly trained to live in society, that they will use their money in a particular way and that they will lend their money at an economic rate—not an exorbitant rate,—so that they may be of service to the society. We are actually creating a new order of things. So, if my friend dispassionately considers this point of view, I think he will be convinced that we are really trying to reconstruct the society with a certain end in view, namely, to enable the poorer sections of our fellow countrymen to enjoy the fruits of their labour without having to part with the major part of their meagre earnings for satisfying the lust for unearned increment on the part of their more fortunate neighbours.

My friend will kindly excuse me if I say that his first argument that the Government has no reason to fall back upon is not correct.

Then, so far as the question of sympathy is concerned, my friend has not got the monopoly of it. Every gentleman has sympathy for the sufferers. The moment he occupies the position which I do, he will have to speak exactly in the same way that I am doing. His second ground also is thus futile.

He has advanced a third ground. He ought to understand that we are really playing the role of social reformers here. I hope, my friend will withdraw his motion.

Mr. NARESH NATH MOOKERJEE: On a point of information, Sir. Will Government have any objection if it is made absolutely clear in the amendment that widows will not be used as *benamdars* of any private money-lender? If you permit me, Sir, I can move a small

short-notice amendment which will make the position absolutely clear with regard to any *benami* that Government apprehends as a result of the passing of this motion.

Mr. PRESIDENT: The Chair will have no objection to allow it if the Hon'ble Minister accepts it but not otherwise.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: The position is this. As I told you in the beginning, the law must be very simple so that everyone can follow it without any difficulty.

Dr. RADHA KUMUD MOOKERJI: But simplicity must not be at the expense of justice!

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Not at all. I do not believe that any person who has got any money should so lend it that the borrower will be in a hopeless condition after 4 or 5 months. So, if you say that he should not be under his control, then you say thereby that a person can lend money at a rate of interest of say 20, 30 or even 40 per cent. But I do not believe that this is wanted by the society any further. Otherwise, what is the meaning of your excluding certain widows from the operation of the Bill? The Bill only provides that a money-lender will lend money at a certain rate of interest and will have to render accounts to the borrower. The present law is this that when a borrower asks for certain accounts, the lender is to furnish such accounts; but what we have actually changed is that the lender will have to render accounts in all cases at least once a year. That is the only difference, and there is not much difference between the existing law and the provision of this Bill. As regards the rate of interest, it is at present 15 per cent., 20 per cent. or 25 per cent. which we say is too high, and we have reduced it to just 8 per cent. These are the two main changes in this Bill; the rest are nothing. Suppose a widow goes through the formality——

Dr. RADHA KUMUD MOOKERJI: How can a widow take a licence?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: As regards the taking of a licence, it is just a small amount which the widow will have to pay in 3 years' time and a licence can be obtained on application to the Sub-Registrar. A widow must get her document registered and for a similar purpose she will have to appear before the Sub-Registrar and get herself registered. That is all that she will have to do. If you dispassionately read the provisions of the Bill, you will find that it is not so very controversial as it has been painted to be. It is a very simple Bill.

Dr. RADHA KUMUD MOOKERJI: Is your new order going to be based on polygamy? (Laughter.)

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I rise to reply to Dr. Mookerji in one word. He has been very much supporting the cause of the widows, but what we have to keep in view is that the principle of this Bill is to stop usury and exploitation by money-lenders. Just as theft and robbery cannot be allowed to be practised even by helpless people, orphans or widows, similarly usury and this sort of exploitation by money-lenders cannot be allowed to be practised by helpless people. If it is bad, it is bad for all and it must be stopped at all costs. Nobody should be allowed to practise it, no matter whether it is a widow or an orphan or any other helpless person. On principle, Sir, we object to this amendment.

Mr. LALIT CHANDRA DAS: Why don't you do away with money-lending?

Mr. PRESIDENT: The question before the House is: that in sub-clause (*13*) of clause 2 of the Bill, after paragraph (*g*), the following new paragraph be inserted, namely:—

"(*h*) any loan or loans due to a widow who on the date on which the Act comes into force, did not own any other property provided that the principal amount of the loan or loans does not exceed rupees two thousand."

(The amendment was negatived.)

Mr. MESHAHUDDIN AHMED: Sir, I beg to move that in sub-clause (*13*) of clause 2 of the Bill, after paragraph (*g*), the following new paragraph be inserted, namely:—

"(*h*) a loan made to or by the Administrator-General and Official Trustee of Bengal or the Commissioner of Wakfs or the Official Assignee or the Official Receiver of the High Court in Calcutta."

Mr. PRESIDENT: Amendment moved: that in sub-clause (*13*) of clause 2 of the Bill, after paragraph (*g*), the following new paragraph be inserted, namely:—

"(*h*) a loan made to or by the Administrator-General or Official Trustee or Bengal or the Commissioner of Wakfs or the Official Assignee or the Official Receiver of the High Court in Calcutta."

Dr. RADHA KUMUD MOOKERJI: Sir, I wish to oppose this amendment with all the emphasis that I can command. Just now we were treated to homilies about the great and lofty principle prompting this measure. We were just now told that the sacred mission on which some of our friends have embarked here is that they are out to be no respector of persons and even a poor and helpless widow as a money-lender will not be spared. I find now, strangely enough, that they are going back on the very principle which they have so loudly professed, and that they are out to make exceptions to which there is no limit. Well, I know your slave mentality. The High Court can encourage money-lending; the Official Receiver can help exploitation; the Administrator-General can do it and what not. I believe there are some further amendments of which notices have been given by people who are also similarly inclined mentally—I mean amendments Nos. 116 to 119. I shall have to say something on that also. But I want to know whether you are observing the great principle of consistency. If you are no respector of persons, if you stand up for principle, why are you not disclosing the loopholes you have left in the Bill and are now going on having a catalogue of all those remedies to supply their sins of omission and commission. So, Sir, on the ground of those very principles which you have just preached to us, I must oppose this amendment.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I rise to support this amendment and to give a reply to Dr. Mookerji. Sir, the exceptions in this Bill are all in favour of public bodies or companies which are doing or are likely to do some service to the country. There are also exceptions in favour of some Government officials or in favour of some public officials but not in favour of private persons. We oppose any amendment in favour of any private person because there is nobody to control him. But when it is a case of not a private person but either a public official or a public company or somebody who is doing some good to the country, we want to exclude him from the operations of this Bill.

Dr. RADHA KUMUD MOOKERJI: The debtor is a private person.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: A private person, whether a widow or an orphan, is not under the control of anybody. We make that distinction and that is why we support this amendment and oppose the other one which was in favour of a private individual.

Dr. RADHA KUMUD MOOKERJI: Debtors are private persons.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: We are making this law for saving the borrowers.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, so far as the Bill is concerned, it provides for the exclusion of Government officials. In the first stage, it was thought that the cases of Official Trustee, Administrator-General, Official Assignee and Commissioner of Wakfs would be governed by the main section which excludes the Government from the operations of this Bill. But it has been subsequently found that there may be some loophole by which these officers may be put to difficulties. So, we have simply suggested that these officers who work under the direction and control of Government and High Court should be excluded from the operation of this Bill. That is all we want and nothing else. If you mean by Government, Governor acting with his Ministers, then the difficulty arises. So, in order to make the thing clear we want to exclude the Official Trustee, Official Assignee, Administrator-General and the Wakf Commissioner.

Dr. RADHA KUMUD MOOKERJI: Including the Ministers?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: The Ministers come under the Government. When the Minister works as a Minister, his case will be governed by the Bill. We have already provided for that. You have no objection to it. So, that has been passed. But so far as these officers are concerned, there may be some doubt in the mind of people that probably they do not form the Government. In order to make the thing clearer and simpler, we have said that any loan taken by or given to them will not come under this Bill.

The Official Trustee, the Official Assignee, the Administrator-General and the Wakf Commissioner are all functioning under their respective Acts. They cannot go beyond those Acts. They are all controlled by the Legislature.

Dr. RADHA KUMUD MOOKERJI: What about the Court of Wards?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: They are not included here.

Dr. RADHA KUMUD MOOKERJI: Why not?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Because they do not want any advance from us. If they wanted, we could have put in the Court of Wards as well. They say that they do not want any help from us.

Dr. RADHA KUMUD MOOKERJI: What about the Hindu *Debuttar* Estates?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: We are not excluding wakf estates. If my friend will read the proposed new paragraph in the sub-clause, he will find that it is not the estates that we are protecting. We are only protecting the official acts of the Wakf Commissioner. The Wakf Commissioner can raise certain loans under the Wakf Act for the working of that Act. Exactly in the same way, the Official Assignee and the Official Trustee can also borrow in the discharge of their official functions; and if they have occasion to do so, they ought not to be put into any difficulty. If you want to control them, you can control them by actually amending those Acts which control their actions. But here we simply say that they will not be affected by this Bill and nothing more.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*13*) of clause 2 of the Bill, after paragraph (*g*), the following new paragraph be inserted, namely:—

"(*h*) a loan made to or by the Administrator-General and Official Trustee of Bengal or the Commissioner of Wakf or the Official Assignee or the Official Receiver of the High Court in Calcutta."

(The amendment was agreed to.)

Rai Sahib INDU BHUSAN SARKAR: Sir, I beg to move that in sub-clause (*14*) of clause 2 of the Bill, for the words "who carries on the business", appearing in lines 1 and 2, the words "whose principal business is that", be substituted.

As this amendment also relates to the same subject as the previous amendment, may I suggest that the consideration of this amendment may be postponed?

Mr. PRESIDENT: What is the necessity for postponing it? You have already moved it.

Rai Sahib INDU BHUSAN SARKAR: May I then go on, Sir?

Mr. PRESIDENT: Yes.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: On a point of order, Sir. You have allowed the last amendment to be postponed and this one also relates to the same clause and same subject.

Mr. PRESIDENT: It is only the consideration of those amendments where the movers and the hon'ble member in charge of the Bill are agreed that are being postponed. This amendment is not connected with the other motion.

Rai Sahib INDU BHUSAN SARKAR: The difficulty is that we do not know the mind of the Government.

Mr. PRESIDENT: You will presently know the mind of Government. Move your amendment.

Rai Sahib INDU BHUSAN SARKAR: Of course, we know what the fate of the amendment will be. Still, I shall move it. In the mufassil areas, men successful in other walks of life such as lawyers, doctors, teachers, who have a surplus to save, have, in the absence of suitable alternative channels of investment, to do money-lending occasionally. Women-folk in the villages also very often make advances of petty amounts to their needy neighbours in distress. By no stretch of imagination or legal fiction, can they be called money-lenders? So, it is desirable that those classes of people whose principal business is not money-lending and who do occasional money-lending business should be excluded from the scope of this Bill. With these words, I commend my amendment to the acceptance of the House.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*14*) of clause 2 of the Bill, for the words "who carries on the business", appearing in lines 1 and 2, the words "whose principal business is that", be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose it.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*14*) of clause 2 of the Bill, for the words "who carries on the business", appearing in lines 1 and 2, the words "whose principal business is that", be substituted.

(The amendment was negatived.)

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move that in sub-clause (*14*) of clause 2 of the Bill, for the words "his principal place", appearing in line 3, the words "a place", be substituted.

Under the Bill clause, a man would be a money-lender who has a principal place of business in Bengal. The expression, "his principal place of business", is at least ambiguous and it may lead to uncertainties. The jurisdiction of the Court or the applicability of the Bill

should be founded on *any* place of business which need not be a principal place of business. The whole question depends on the habitual loan and not on the character of the place of business being principal or subsidiary. So, the retention of the word "principal" would lead to evasions. A real money-lender might say that although he lends money, his place of business in the province is not his principal place of business. In these circumstances, I have suggested this amendment. The effect of the amendment would be that a habitual lender having even a subsidiary place of business will come within the purview of the Bill. It is only an important drafting change. I submit, Sir, this should be accepted by the Government.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*14*) of clause 2 of the Bill, for the words "his principal place", appearing in line 3, the words "a place", be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*14*) of clause 2 of the Bill, for the words "his principal place", appearing in line 3, the words "a place", be substituted.

(The amendment was agreed to.)

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I beg to move that in sub-clause (*14*) of clause 2 of the Bill, the following words be added at the end, namely:—

> "but does not include any person *bona fide* carrying on the business of banking or *bona fide* carrying on any business not having for its primary object the lending of money, in the course of which and for the purposes whereof he lends money".

Sir, this Bill, as stated in the Statement of Objects and Reasons, is based on the provisions of the English Money-lenders Act of 1926. In fact, the whole conception of registration and licensing of money-lenders, that is to say, the regulation of money-lenders and money-lending has been taken from this Act. But it conveniently omits to take the definitions of the terms "money-lenders" and "money-lending" from that Act. I have by this amendment sought to re-insert the words omitted from the definition and for this purpose, I move the amendment for the acceptance of the House.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*14*) of clause 2 of the Bill, the following words be added at the end, namely:—

"but does not include any person *bona fide* carrying on the business of banking or *bona fide* carrying on any business not having for its primary object the lending of money, in the course of which and for the purposes whereof he lends money".

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose it. I find that my friend, the Rai Bahadur, has referred to some English Act. We have also considered that. After consideration of all these, the new definition has been suggested by my party and I have accepted this. There is no reason for us to go to England for getting our definitions.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*14*) of clause 2 of the Bill, the following words be added at the end, namely:—

"but does not include any person *bona fide* carrying on the business of banking or *bona fide* carrying on any business not having for its primary object the lending of money, in the course of which and for the purposes whereof he lends money".

(The amendment was negatived.)

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I beg to move that in sub-clause (*15*) of clause 2 of the Bill, for the words "either solely or in conjunction with any other business", in lines 3 and 4, the words "solely and primarily", be substituted.

Sir, this amendment seeks to bring the definition of money-lending into line with the definition in the English Money-lenders Act. A largely-signed note of dissent appended to the report of the Select Committee in the other House insisted on amendment of the clause on the lines of the English Act and I am also of opinion that the change should be made. Therefore, I move the amendment.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*15*) of clause 2 of the Bill, for the words "either solely or in conjunction with any other business", in lines 3 and 4, the words "solely and primarily", be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose it.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*15*) of clause 2 of the Bill, for the words "either solely or in conjunction with any other business", in lines 3 and 4, the words "solely and primarily", be substituted.

(The amendment was negatived.)

Mr. RANAJIT PAL CHOUDHURY: Sir, I beg to move that in sub-clause (*16*) of clause 2 of the Bill, after the words "rules made under this Act", the words "by a Committee of the Legislatures", be inserted.

Sir, my intention in moving this amendment is that I do not want to leave the rules in the hands of the officers of the Secretariat. I think, we would get a more square deal if the members of the Legislature in a Committee frame the rules. With these words, I formally moved this amendment.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*16*) of clause 2 of the Bill, after the words "rules made under this Act", the words "by a Committee of the Legislatures", be inserted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose it.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*16*) of clause 2 of the Bill, after the words "rules made under this Act", the words "by a Committee of the Legislatures", be inserted.

(The amendment was negatived.)

Mr. NARESH NATH MOOKERJEE: Sir, I beg to move that in sub-clause (*23*) of clause 2 of the Bill, for the words "or proceeding", in line 2, the words "appeal, proceeding in revision, or other proceeding", be substituted.

The object of my introducing this amendment is to make it absolutely clear. It is very vague in the clause as it is.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*23*) of clause 2 of the Bill, for the words "or proceeding", in line 2, the words "appeal, proceeding in revision, or other proceeding", be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose it.

Mr. PRESIDENT: The question before the House is: that in sub clause (*23*) of clause 2 of the Bill, for the words "or proceeding", in line 2, the words "appeal, proceeding in revision, or other proceeding", be substituted.

(The amendment was negatived.)

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I beg to move that in sub-clause (*23*) of clause 2 of the Bill, all the words beginning with "instituted or", in line 2 and ending with "date" in line 4, be omitted.

Sir, the effect of the words indicated in this amendment is to give retrospective effect to the provisions of the Bill. I need hardly mention what a great confusion this will create. Suits filed on the footing of the then prevailing law will be seriously affected. This is highly unjust and inequitable. Therefore, I move that the words be omitted, so that no part of pending suits may be regulated by the new provisions.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*23*) of clause 2 of the Bill, all the words beginning with "instituted or", in line 2 and ending with "date" in line 4, be omitted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose it.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*23*) of clause 2 of the Bill, all the words beginning with "instituted or", in line 2 and ending with "date" in line 4, be omitted.

(The amendment was negatived.)

Rai Sahib INDU BHUSAN SARKAR: Sir, I beg to move that in sub-clause (*23*) of clause 2 of the Bill, for the words "on or after the 1st day of January, 1939, or pending on that date", appearing in lines 2 to 4, the words "after the commencement of this Act", be substituted.

Sir, the definition of the word "suit" should be so modified as not to give retrospective effect to some of the provisions of the Bill. As regards retrospective effect, there are many difficulties of the parties who will come up hereafter. So, this shoud be after the commencement of the Act.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*23*) of clause 2 of the Bill, for the words "on or after the 1st day of January, 1939, or pending on that date", appearing in lines 2 to 4, the words "after the commencement of this Act", be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, oppose it.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*23*) of clause 2 of the Bill, for the words "on or after the 1st day of January, 1939, or pending on that date" appearing in lines 2 to 4, the words "after the commencement of this Act", be substituted.

(The amendment was negatived.)

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I beg to move that in sub-clause (*23*) (*a*) of clause 2 of the Bill, all the words beginning with "advanced before", in line 1 and ending with the word "Act" in line 2, be omitted.

Sir, the effect of the words mentioned is to give retrospective effect to the provisions of the Bill. This is highly undesirable in the matter of a substantive law. Contracts and agreements made on the footing of the existing law should not be brushed aside. I, therefore, move my amendment.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*23*) (*a*) of clause 2 of the Bill, all the words beginning with "advanced before", in line 1 and ending with the word "Act" in line 2, be omitted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose this amendment.

Dr. RADHA KUMUD MOOKERJI: May we know some reasons from the Hon'ble Minister?

Khan Bahadur NAZIRUDDIN AHMAD: Dr. Mookerji wants some reasons. May I submit one? The announcement of the intention to reduce and cancel interest and give other reliefs was made just before the 1st January, 1939. If we did not include the words "on or after the 1st January, 1939", the result would have been that, between the announcement of the intention and the passing of the Bill, there would have been hundreds of thousands of suits filed; and in the rush, all debtors would have been absolutely ruined. In order to prevent a general rush to Courts and prevent debtors being absolutely squeezed out of existence, this wholesome provision is made. There is no retrospective effect between the announcement of the intention and the passing of the Bill. It is not a question of giving retrospective effect in the ordinary sense of the term. It is simply to preserve the *status quo* and to give interim protection to the debtors before the Bill could be

passed into law. It is just like issuing an Ordinance in order to steady a market and to preserve *status quo* before an Act could be passed by the Legislature. That is the principal reason behind it. There are other reasons also. But this I think would be quite sufficient.

Dr. RADHA KUMUD MOOKERJI: I wanted to have an official explanation of the reasons for opposing this amendment.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, ——

Mr. PRESIDENT: Order, order. Under the rules I cannot allow two speeches to be made by any member. A speech may even consist of only one word. The Hon'ble Minister has already made his speech.

The question before the House is: that in sub-clause (*23*) (*a*) of clause 2 of the Bill, all the words beginning with "advanced before", in line 1 and ending with the word "Act" in line 2, be omitted.

(The amendment was negatived.)

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I beg to move that in sub-clause (*23*) (*b*) of clause 2 of the Bill, all the words beginning with "entered", in line 1 and ending with "this Act" in line 3, be omitted.

My purpose is to counteract the retrospective effect of these words. In the absence of these words, the general law will apply and the provision of the clause will have retrospective effect.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose this amendment.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*23*) (*b*) of clause 2 of the Bill, all the words beginning with "entered", in line 1 and ending with "this Act" in line 3, be omitted.

(The amendment was negatived.)

Clause 3.

Mr. PRESIDENT: Clause 3 stand part of the Bill.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: On a point of order, Sir. As this clause also comes under the point of order already raised, may I suggest that the consideration of this clause be left over.

Mr. PRESIDENT: I agree that clause 3 cannot be taken up now. The House will now proceed with the consideration of clause 4.

Mr. MESBAHAUDDIN AHMED: Sir, we are not ready to proceed with clause 4 to-day.

Mr. PRESIDENT: As the Government are not ready to take up clause 4 to-day and as there is no other business before the House now, I adjourn the Council till 2-15 p.m. to-morrow.

Adjournment.

The Council then adjourned till 2-15 p.m. on Thursday, the 4th January, 1940.

Members absent.

The following members were absent from the meeting held on the 3rd January, 1940:—

(1) Mr. Kader Baksh.

(2) Rai Bahadur Manmatha Nath Bose.

(3) Mr. Humayun Reza Chowdhury.

(4) Mr. Narendra Chandra Datta.

(5) Mr. Kamini Kumar Dutta.

(6) Khan Bahadur S. Fazal Ellahi.

(7) Khan Bahadur Alhaj Khwaja Muhammad Esmail.

(8) Mr. Kanai Lal Goswami.

(9) Khan Bahadur Syed Muhammad Ghaziul Huq.

(10) Khan Bahadur M. Abdul Karim.

(11) Khan Bahadur Muhammad Asaf Khan.

(12) Maulana Muhammad Akram Khan.

(13 Mr. Nagendra Narayan Roy.

(14) Mr. Krishna Chandra Roy Chowdhury.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Thursday, the 4th January, 1940, at 2-15 p.m. being the eighteenth day of the Third Session, pursuant to section 62 (2) (a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Bengali ex-employees of German firms.

116. Rai Sahib INDU BHUSAN SARKAR (on behalf of Raja Bhupendra Narayan Sinha Bahadur, of Nashipur): (a) Is the Hon'ble Minister in charge of the Agriculture and Industries Department aware that owing to the outbreak of war several German firms have been compulsorily closed down and as a consequence thousands of Bengalees have been thrown out of employment in Calcutta and all over Bengal? If so, will the Hon'ble Minister be pleased to state whether any steps have been taken for ameliorating the conditions of these unemployed men and preventing the starvation of their families?

(b) Has any scheme been drawn up by the Government of Bengal to provide employment for these men in the existing avenues of employment or for giving them employment in such industries or industrial concerns which are cropping up as a result of the war?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca): (a) I am aware that the Government of India have ordered the closing down of certain enemy firms but I am not aware that as a consequence thousands of Bengalees have been thrown out of employment; still less have I any information that such unemployed persons are starving.

(b) Does not arise.

Rai Sahib INDU BHUSAN SARKAR: Will the Hon'ble Minister be pleased to enquire into the matter whether it is a fact that many people were thrown out of employment? Has any enquiry been made?

The Hon'ble Khwaja Sir NAZIMUDDIN: There is no doubt that a certain number of people must have become unemployed, but I do not know what Government can do in this matter.

Rai Sahib INDU BHUSAN SARKAR: Will the Hon'ble Minister be pleased to state whether the unemployment is due to the closing of these firms or is a normal condition?

The Hon'ble Khwaja Sir NAZIMUDDIN: It is due to War that some people have been thrown out of employment.

Rai Sahib INDU BHUSAN SARKAR: And not on account of the closing of enemy firms?

The Hon'ble Khwaja Sir NAZIMUDDIN: Yes. That is a natural consequence of the War.

Khan Bahadur NAZIRUDDIN AHMAD: Will the Hon'ble Minister please try to stop the War if he can? (Laughter.)

(No reply.)

Scholarships at the Indian School of Mines and other institutes outside Bengal.

117. Rai Sahib INDU BHUSAN SARKAR (on behalf of Rai Bahadur Satis Chandra Mukherji): (*a*) Will the Hon'ble Minister in charge of the Industries Department be pleased to state how many scholarships are given by the Government of Bengal to scholars in the Indian School of Mines at Dhanbad in Bihar? What is the monthly value of such scholarship? What are the names of the present scholarship-holders?

(*b*) Does the Government of Bengal grant scholarships to scholars in other institutions outside Bengal? If so, what are the institutions and the number and the value of such scholarship?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca): (*a*) Four scholarships of Rs. 40 each per month tenable for four years are awarded annually. As regards the names of the present scholars, a statement is laid on the table.

(*b*) So far as the Industries Department is concerned, a statement is laid on the table.

Statement referred to in the reply to clause (a) of question No. 117, showing the names of the present scholarship-holders in the Indian School of Mines, Dhanbad.

1ST YEAR CLASS.

(1) Debasis Chatterjee.
(2) Bhudeb Chandra Roy Ghatak.
(3) Dhirendra Kumar Basu.
(4) Sisir Kumar Chanda.

2ND YEAR CLASS.

(1) Bhupendra Nath Banerjea.
(2) Parimal Kumar Roy.
(3) Manindra Nath Guin.
(4) Sudhir Kumar Dhar.

3RD YEAR CLASS.

(1) Samarendra Bagchi.
(2) Amal Kumar Mitra.
(3) Niranjan Chandra.
(4) Bireswar Laskar.

4TH YEAR CLASS.

(1) Sailaja Nanda Sen.
(2) Sakti Prosanna Mukherjee.
(3) Hari Das Roy.
(4) Shudhanshu Roy.

Statement referred to in the reply to clause (b) of question No. 117.

Number of Scholarships.	Value.	Where tenable.
	Rs. per mensem.	
2 every year, each tenable for 3 years	30	Imperial, Institute of Sugar Technology, Cawnpore.
Sanctioned for one year only—		
2 ..	40	Sialkot for sports goods manufactures.
2 ..	40	Aligarh for lock manufactures.

Organisation of public libraries in Bengal.

118. Mr. NUR AHMED: (*a*) Will the Hon'ble Minister in charge of the Rural Reconstruction Department be pleased to state what steps he has taken to encourage the library movement in Bengal?

(*b*) Does the Government of Bengal intend to establish a training college for librarians in Bengal and set up a machinery for carrying on propaganda, organise public libraries in the province and also to make liberal grants for the upkeep of such libraries for popularising education amongst the masses?

MINISTER in charge of RURAL RECONSTRUCTION and COMMERCE and LABOUR DEPARTMENTS (the Hon'ble Mr. H. S. Suhrawardy): (*a*) I am concerned only with village libraries and I have made the establishment and encouragement of village libraries an important item in my scheme of rural reconstruction. Grants totalling about Rs. 11,000 have been given throughout the province for this purpose and my information is that up to August, 1939, considerably more than 400 village libraries have been established as a direct result of the propaganda undertaken by District Officers and others at the instance of my department.

(*b*) The subject of public libraries and training of librarians is dealt with by the Education Department to whom the hon'ble member should refer. For the simple village library with which I am concerned, the question of the training of librarians does not arise.

Activities of the Controllers of Prices and Foodstuff.

119. Rai Bahadur S. N. SINHA: Will the Hon'ble Minister in charge of the Commerce and Labour Department be pleased to state what steps the Chief Controller of Prices and Foodstuff and the District Controller are taking to check the increase of prices of sugar, salt, coal and oil in the mufassil?

The Hon'ble Mr. H. S. SUHRAWARDY: The action taken by the Chief Controller in respect of the commodities mentioned in the question is as follows:—

(*a*) *Sugar.*—Soon after the declaration of war it was found that the stock of country-made sugar was not sufficient, and it was feared that, if the price of imported sugar was fixed on any other except replacement cost basis, imports might fall off. Therefore no price was fixed for sugar. But now when country-made sugar is coming in, the wholesale price of sugar has been fixed at Rs. 13-4 per maund and the retail

price at 5 annas 6 pies per seer. This is for Calcutta and suburbs. The District Price Controllers have been instructed to consult local Advisory Committees and on their advice add the cost of transport where it is considered necessary.

(b) *Coal.*—There has been no excessive rise in the price of coal and its price is not being controlled.

(c) *Oil.*—There was no rise in the prices of mustard oil or of cocoanut oil: The prices shot up in the 3rd week of November. Investigation is being made to ascertain reasons. So far it is learnt that mustard seed had gone up by Re. 1 per maund in Northern India and cocoanut oil is selling at a much higher price in countries from which it is imported. Maximum prices were fixed on the 6th December, 1939, and may be revised as soon as the investigation is completed.

(d) *Salt.*—The price of salt was fixed on the 21st September, 1939, at Rs. 107 per 100 maunds and on the 16th October, 1939, it was reduced to Rs. 98 and the mufassal retail price was fixed at 1 anna 6 pies per seer. Due to heavy imports the wholesale price subsequently went down to Rs. 70. It has come up again. There has been no report that in the mufassal prices higher than 1 anna 6 pies per seer have been charged.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister kindly state whether prices of certain commodities are being controlled; if so, on what principle?

The Hon'ble Mr. H. S. SUHRAWARDY: Commodities which are essential for the community are being controlled, and the principle is to see that there is no undue profit made in them.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister please state if steel and iron are being controlled?

The Hon'ble Mr. H. S. SUHRAWARDY: No, Sir. It is impossible to control them.

Rai Sahib INDU BHUSAN SARKAR: With reference to answer (b), is the Hon'ble Minister aware that owing to the scanty supply of wagons, coal has not been imported according to its demand?

The Hon'ble Mr. H. S. SUHRAWARDY: The supply of wagons does not come within my jurisdiction, or in fact, of the jurisdiction of the Government of Bengal. It is a matter for the Government of

India. We have tried our best, however, to see that coal is supplied to those concerns whose existence and maintenance depend on its supply in the province.

The Bengal Money-Lenders Bill, 1939.

Mr. PRESIDENT: The House will now resume further consideration of the Bengal Money-lenders Bill, 1939.

Clause 4 stand part of the Bill.

Mr. NARESH NATH MOOKERJEE: Sir, I submit that it will be easier to proceed with further consideration of the Bill if Government could place their views before the House and if you, Sir, could kindly give your ruling with regard to the point of order raised as regards banks. Without your ruling on the point, it seems we are working without any purpose. It appears to me, Sir, that any ruling that you may be pleased to give on the point of order raised on the question of inclusion of banks within the scope of this Bill will have considerable bearing on the discussion on the amendments to clause 4.

Mr. PRESIDENT: Clause 4 has no connection with banks or promissory notes. Discussion on the point of order will be taken up on Monday.

Rai Sahib INDU BHUSAN SARKAR: Sir, I beg to move that in sub-clause (*a*) of clause 4 of the Bill, for the words "Court of Small Causes of Calcutta", the words "High Court of Calcutta in its ordinary Original Civil Jurisdiction", be substituted.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*a*) of clause 4 of the Bill, for the words "Court of Small Causes of Calcutta" the words "High Court of Calcutta in its ordinary Original Civil Jurisdiction", be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose it.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*a*) of clause 4 of the Bill, for the words "Court of Small Causes of Calcutta", the words "High Court of Calcutta in its ordinary Original Civil Jurisdiction", be substituted.

(The amendment was negatived.)

Mr. RANAJIT PAL CHOUDHURY: Sir, I beg to move that in clause 4 of the Bill, in sub-clause (*b*) after the word "Court" appearing in line 3, the words "not lower than the Court of the Subordinate Judge", be inserted.

Sir, my object in moving this amendment is that I do not think that it would be very judicious to give power to any officer lower than the rank of a Subordinate Judge.

Mr. PRESIDENT: Amendment moved: that in clause 4 of the Bill in sub-clause (*b*) after the word "Court", appearing in line 3, the words "not lower than the Court of the Subordinate Judge" be inserted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose it on the ground that a Subordinate Judge may not be available in every district. For example, in Jalpaiguri I know, a Subordinate Judge comes occasionally. So, I do not think that only the Subordinate Judge ought to be given this power. It will be quite all right if a competent Munsif had this power.

Mr. PRESIDENT: The question before the House is: that in clause 4 of the Bill, in sub-clause (*b*) after the word "Court" appearing in line 3, the words "not lower than the Court of the Subordinate Judge", be inserted.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 4 stand part of the Bill.

(The motion was agreed to.)

Clause 5.

Mr. PRESIDENT: Clause 5 stand part of the Bill.

Mr. NAGENDRA NARAYAN RAY: Sir, I beg to move the amendment that stands in my name—that in sub-clause (*1*) of clause 5 of the Bill, for the word "follows" at the beginning of line 4, the words "does follow", be substituted.

Sir, the object of this amendment is only to make an improvement in the language.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) of clause 5 of the Bill, for the word "follows" at the beginning of line 4, the words "does follow", be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose the motion because I think that the existing language is all right.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*) of clause 5 of the Bill, for the word "follows", at the beginning of line 4, the words "does follow", be substituted.

(The amendment was negatived.)

Mr. BANKIM CHANDRA DUTTA: Sir, I beg to move that for sub-clause (*2*) of clause 5 of the Bill, the following be substituted, namely:—

"(*2*) Every order made by a competent Court under this Act shall be subject to appeal and the provisions of the Code of Civil Procedure, 1908, relating to appeals shall be applicable thereto."

Sir, I ought to tell the House that this is really more or less in the nature of a verbal alteration.

Sub-clause (*2*) of clause 5, as it stands, reads thus:

"(*2*) Every order made by a competent Court under this Act shall be subject to appeal in accordance with the provisions of the Code of Civil Procedure, 1908, applicable to appeals."

I am only making it more explicit by stating that the provisions of the Code of Civil Procedure relating to appeals shall be applicable thereto. It is only a verbal alteration.

Mr. PRESIDENT: Amendment moved: that for sub-clause (*2*) of clause 5 of the Bill, the following be substituted, namely:—

"(*2*) Every order made a competent Court under this Act shall be subject to appeal, and the provisions of the Code of Civil Procedure, 1908, relating to appeals shall be applicable thereto."

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose the motion. So far as the present sub-clause is concerned, it seems to be all right. But if experience shows that we are wrong, it may in future be altered.

Mr. BANKIM CHANDRA DUTTA: The High Court will set matters right.

Mr. PRESIDENT: The question before the House is: that for sub-clause (2) of clause 5 of the Bill, the following be substituted, namely:—

(2) Every order made by a competent Court under this Act shall be subject to appeal and the provisions of the Code of Civil Procedure, 1908, relating to appeals shall be applicable thereto."

(The amendment was negatived.)

Mr. LALIT CHANDRA DAS: Sir, I beg to move that in sub-clause (2) of clause 5 of the Bill, after the word "appeals", appearing in the last line, the following be inserted, namely:—

"to the District Judge's Court when the order is not of the District Court and to the High Court when the order is passed by the District Court".

Sir, under clause 4, the District Judge or rather the competent Court has got the right to transfer the proceedings to any other Court. When the proceedings are transferred to any other Court, that Court would be subordinate to the District Judge and so when a decision is made by that Court, the appeal should be to the District Judge. But if the decision is made by the District Court, the appeal should be to the High Court. If my amendment is accepted, it would read as follows:—

"Every order made by a competent Court under this Act shall be subject to appeal in accordance with the provisions of the Code of Civil Procedure, 1908, applicable to appeals to the District Judge's Court when the order is not of the District Court and to the High Court when the order is passed by the District Court."

Mr. PRESIDENT: Amendment moved: that in sub-clause (2) of clause 5 of the Bill, after the word "appeals", appearing in the last line, the following be inserted, namely:—

"to the District Judge's Court when the order is not of the District Court and to the High Court when the order is passed by the District Court".

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose the motion because this is covered by sub-clauses (1) and (2). It seems to me to be unnecessary, and I oppose it on that account.

Mr. PRESIDENT: The question before the House is that in sub-clause (2) of clause 5 of the Bill, after the word "appeals" appearing in the last line, the following be inserted, namely:—

"to the District Judge's Court when the order is not of the District Court and to the High Court when the order is passed by the District Court."

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 5 stand part of the Bill.

(The motion was agreed to.)

Clause 6.

Mr. PRESIDENT: Clause 6 stand part of the Bill.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move that in clause 6 of the Bill, for the word "each" appearing in line 6, the words "each such officer" be substituted.

Sir, it is only a drafting amendment.

Mr. PRESIDENT: Amendment moved: that in clause 6 of the Bill, for the word "each" appearing in line 6, the words "each such officer" be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that in clause 6 of the Bill, for the word "each" appearing in line 6, the words "each such officer" be substituted.

(The amendment was agreed to.)

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move that in clause 6 of the Bill, the words "if any", appearing in line 7, be omitted.

Sir, this is also a drafting amendment.

Mr. PRESIDENT: Amendment moved: that in clause 6 of the Bill, the words "if any" appearing in line 7, be omitted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that in clause 6 of the Bill, the words "if any" appearing in line 7, be omitted.

(The amendment was agreed to.)

Mr. MESBAHUDDIN AHMED: Sir, I beg to move that in clause 6 of the Bill, for the words "which the Provincial Registrar shall exercise over the Registrars and Sub-Registrars and a Registrar over the Sub-Registrars" appearing in lines 8 to 10, the following be substituted, namely:—

"which shall be exercised by the Provincial Registrar over Registrars and Sub-Registrars and by a Registrar over Sub-Registrars".

Mr. PRESIDENT: Amendment moved: that in clause 6 of the Bill, for the words "which the Provincial Registrar shall exercise over the Registrars and Sub-Registrars and a Registrar over the Sub-Registrars" appearing in lines 8 to 10, the following be substituted, namely:—

"which shall be exercised by the Provincial Registrar over Registrars and Sub-Registrars and by a Registrar over Sub-Registrars".

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: I accept it.

Mr. PRESIDENT: The question before the House is: that in clause 6 of the Bill, for the words "which the Provincial Registrar shall exercise over the Registrars and Sub-Registrars and a Registrar over the Sub-Registrars" appearing in lines 8 to 10, the following be substituted, namely:—

"which shall be exercised by the Provincial Registrar over Registrars and Sub-Registrars and by a Registrar over Sub-Registrars".

(The amendment was agreed to.)

Mr. MESBAHUDDIN AHMED: Sir, I beg to move that in the proviso to clause 6 of the Bill, for the words "an officer" in line 1, the words "a servant" be substituted.

Mr. PRESIDENT: *Amendment moved: that in the proviso to clause 6 of the Bill, for the words "an officer" in line 1, the words "a servant" be substituted.*

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that in the proviso to clause 6 of the Bill, for the words "an officer" in line 1, the words "a servant" be substituted.

(The amendment was agreed to.)

Mr. LALIT CHANDRA DAS: Sir, I beg to move that in the proviso to clause 6 of the Bill, after the word "India" in line 2, the following words be inserted, namely:—

"or an Advocate of the High Court or a pleader with the minimum qualification of a B.L. and having practice of not less than six years or a gazetted judicial or executive officer of the Government".

Sir, if my amendment is accepted, the proviso will read as follows:—

Provided that no person who is not an officer of the Crown in India or an Advocate of the High Court or a pleader with the minimum qualification of a B.L. and having practice of not less than six years or a gazetted judicial or executive officer of the Government shall be empowered to act as a Provincial Registrar, Registrar or Sub-Registrar under this Act.

Sir, there is absolutely no reason why these offices should be made the preserves only of the servants of the Crown. For instance, if necessary qualifications are found in others, there is no reason, Sir, why they should be debarred from holding such offices. I think the persons named in my amendment are very competent to hold these posts—an Advocate of the High Court or a pleader with the minimum qualification of a B.L. and having practice of not less than six years of a gazetted judicial or executive officer of the Government.

With these words, Sir, I move my amendment.

Mr. PRESIDENT: Amendment moved: that in the proviso to clause 6 of the Bill, after the word "India" in line 2, the following words be inserted, namely:—

"or an Advocate of the High Court or a pleader with the minimum qualification of a B.L. and having practice of not less than six years or a gazetted judicial or executive officer of the Government".

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose the amendment. My friend is under a misapprehension. He believes that by this Bill Government will have a lot of money which can be distributed as remuneration or honorarium to educated people engaged in the learned professions. It is nothing of the kind. What we actually desire is that the small amount of money that will be spent will cover just the expenses of running the office, and no new man would be appointed to carry on the work under this Act. Existing officers will be authorised to work the Act and without any additional expenditure whatsoever. That is the reason why we have said that servants of the Crown should have the power to work here. If, of course, in course of time my friend's proposal can be accepted, I would be glad. But unfortunately, this is not the time for making any move in that direction.

Mr. PRESIDENT: The question before the House is: that in the proviso to clause 6 of the Bill, after the word "India", in line 2, the following words be inserted, namely:—

> "or an Advocate of the High Court or a pleader with the minimum qualification of a B.L. and having practice of not less than six years or a gazetted judicial or executive officer of the Government."

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 6, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 7.

Mr. PRESIDENT: The question before the House is that clause 7 stand part of the Bill.

(The motion was agreed to.)

Clause 8.

Mr. PRESIDENT: Clause 8 stand part of the Bill.

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I beg to move that in clause 8 of the Bill, after the words "business of money-lending" appearing in lines 4 and 5, the words "within the province" be inserted.

Sir, it is not intended that the business of giving loans to outside should be restricted by this Bill. The definition of the term "loan" in clause 2, sub-clause (*13*), paragraph (*c*), may be seen in this connection. Loans to local bodies outside Bengal will not be loans within the meaning of this Act. So, the words "outside Bengal" are necessary. I therefore, move this amendment.

Mr. PRESIDENT: Amendment moved: that in clause 8 of the Bill, after the words "business of money-lending" appearing in lines 4 and 5, the words "within the province" be inserted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: I oppose it because it is unnecessary.

Mr. PRESIDENT: The question before the House is: that in clause 8 of the Bill, after the words "business of money-lending" appearing in lines 4 and 5, the words "within the province", be inserted.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 8 stand part of the Bill.

(The motion was agreed to.)

Clause 9.

Mr. PRESIDENT: Clause 9 stand part of the Bill.

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I beg to move that in sub-clause (*1*) of clause 9 of the Bill, for the word "three" appearing in line 2, the word "five" be substituted.

Sir, it would be a hardship on money-lenders if licences have got to be renewed every three years. The minimum period for the validity of any licence should be five years and not three. I hope the Hon'ble Minister will accept my amendment.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) of clause 9 of the Bill, for the word "three" appearing in line 2, the word "five" be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, the government proposal at the outset was that licences should be taken every year. Then, it was fixed for three years as a matter of

compromise. Now, Sir, if it has been fixed by compromise for three years, my friends should not now come with a proposal for further lengthening the time.

Mr. LALIT CHANDRA DAS: On a point of information, Sir. With whom was the compromise made—with members of this House or amongst the members of the Coalition Party?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: The compromise was made in the Lower House between the Coalition Party and the Congress Party.

Mr. AMULYADHONE ROY: On a point of order, Sir. Is this House bound by any compromise arrived at in the other House?

Mr. PRESIDENT: I would advise the Hon'ble Minister not to refer to matters that transpired in the other House.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Then I withdraw all that I have said. I simply oppose the amendment.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*) of clause 9 of the Bill, for the word "three" appearing in line 2, the word "five" be substituted.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 9 stand part of the Bill.

(The motion was agreed to.)

Clause 10.

Mr. PRESIDENT: Clause 10 stand part of the Bill.

Mr. RANAJIT PAL CHOUDHURY: Sir, I beg to move that in clause 10 of the Bill, after the words "a fee" appearing in line 2, the words "on a graduated scale" be inserted; and the words "of fifteen rupees", be omitted.

Sir, I take my stand on logic and equity. It would be very unfair for a money-lender who is dealing in lakhs of rupees to pay the same amount as a widow who is dealing only in a few hundreds. I, therefore, hope that Government will accept this small amendment.

Mr. PRESIDENT: Amendment moved: that in clause 10 of the Bill, after the words "a fee" appearing in line 2, the words "on a graduated scale" be inserted; and the words "of fifteen rupees" be omitted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose it.

Mr. PRESIDENT: The question before the House is: that in clause 10 of the Bill, after the words "a fee" appearing in line 2, the words "on a graduated scale" be inserted; and the words "of fifteen rupees" be omitted.

(The amendment was negatived.)

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I beg to move that in clause 10 of the Bill, for the words "fifteen rupees" appearing in line 2, the following be substituted, namely:—

"five rupees for a money-lender in carrying money-lending business up to thousand rupees, ten rupees for a money-lender in carrying money-lending business up to five thousand rupees and fifteen rupees for carrying money-lending business over five thousand rupees."

Sir, unless we substitute a graduated scale for the flat rate of Rs. 15, as proposed in the Bill, a good deal of hardship will be caused to small businessmen with small capital. They will be hard hit as the profit which will accrue to them will be small. So, there ought to be a scale and I have suggested the rates of fees for licences. With these words, I move my amendment.

Mr. PRESIDENT: Amendment moved: that in clause 10 of the Bill, for the words "fifteen rupees" appearing in line 2, the following be substituted, namely:—

"five rupees for a money-lender in carrying money-lending business up to thousand rupees, ten rupees for a money-lender in carrying money-lending business up to five thousand rupees and fifteen rupees for carrying money-lending business over five thousand rupees".

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, at this stage, it will not be possible for me to think of altering our rates. If after working the Act for some time, a case can be made out for a graduated scale of fees for licences. I will think of doing it later on but not at this stage.

Mr. PRESIDENT: The question before the House is: that in clause 10 of the Bill, for the words "fifteen rupees" appearing in line 2, the following be substituted, namely:—

"five rupees for a money-lender in carrying money-lending business up to thousand rupees, ten rupees for a money-lender in carrying money-lending business up to five thousand rupees and fifteen rupees for carrying money-lending business over five thousand rupees".

(The amendment was negatived.)

Mr. RANAJIT PAL CHOUDHURY: Sir, I beg to move that the proviso to clause 10 of the Bill be omitted.

Sir, my reason for moving this amendment is that it is not proper in all cases that Government should have the right to pick and choose in a matter where legislation is meant for all. As it is, Sir, we have given the power of making rules to officers of the Secretariat and I do not think it would be fair that they should have the power to exempt people who might be their favourites. I, therefore, move this amendment.

Mr. PRESIDENT: Amendment moved: that the proviso to clause 10 of the Bill be omitted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose it on the ground that in future some of the proposals which have been moved by members of the Opposition in this House can be accepted by the Government and as such, declared in the "Official Gazette", my friends should not stand in the way. Although being in a hurry, we may not accept many of the amendments sponsored by them, it may be that Government may afterwards be advised to accept some of the amendments which have been actually tabled by my friends—

Mr. NARESH NATH MOOKERJEE: Why not do it now?

Mr. RANAJIT PAL CHOUDHURI: It is in this House where we should rectify these mistakes.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: But you should not take away the power of Government to rectify some of the mistakes that may be discovered in the actual working of this legislative measure. If you do so, I do not know what will happen. You will then place yourselves in an awkward position and the country also will be placed in an awkward position. So, I appeal

to you to withdraw this motion instead of asking us to oppose you and vote the amendment down. I think it is in the interests of the country to withdraw this motion.

Mr. NARESH NATH MOOKERJEE: Sir, from what we have just heard, it seems that the Hon'ble Minister is not clear in his own mind as to whether the amendments we are moving are better to be accepted than opposed. In that view of the case, I think Government should realise that if they find that there is anything in these amendments, they should accept them straightway without making the suggestion that they would do it later on when the time comes. I think this attitude on the part of Government is wholly objectionable. We are here sponsoring amendments with a view to improving the Bill and I think, we are right in charging the Government that they are opposing the amendments merely for the sake of opposition simply because these amendments do not happen to be sponsored by members of their party. This is very unfair and it is sheer waste of the time of the House. (Cries of "Hear, hear" from Opposition Benches.)

Mr. PRESIDENT: The question before the House is: that the proviso to clause 10 of the Bill be omitted.

The House then divided with the following result:—

AYES—10.

Das, Mr. Lalit Chandra.
Datta, Mr. Bankim Chandra.
Kabir, Mr. Humayun.
Maitra, Rai Bahadur Brojendra Mohan.
Mookerjee, Mr. Naresh Nath.
Mookerji, Dr. Radha Kumud.
Pal Choudhury, Mr. Ranajit.
Roy, Mr. Amulya Dhone.
Sarker, Rai Sahib Indu Bhusan.
Sinha, Rai Bahadur Surendra Narayan.

NOES—31.

Ahmad, Khan Bahadur Nazirudin.
Ahmed, Mr. Mesbahuddin.
Ahmed, Mr. Nur.
Baksh, Mr. Kader.
Barua, Dr. Arabinda.
Chowdhury, Khan Sahib Abdul Hamid.
Chowdhury, Mr. Khorshed Alam.
Chowdhury, Mr. Hamidul Huq.
Chowdhury, Khan Bahadur Rezzaqui Haider.
Cohen, Mr. D. J.
D'Rozario, Mrs. K.
Haider, Nawabzada Kamruddin.
Hosain, Khan Bahadur Saiyed Muazzamuddin.
Hossain, Mr. Latafat.
Hossain, Mr. Mohamed.
Hunter, Mr. H. C. A.
Huq, Khan Bahadur Syed Muhammad Ghaziul.
Ibrahim, Khan Bahadur Mauivi Mohaminad.
Khan, Khan Bahadur Muhammad Asaf.
Khan, Maulana Muhammad Akram.
Laidlaw, Mr. W. B. G.
Molla, Khan Sahib Subidali.
Momin, Begum Hamida.
Rahman, Khan Bahadur Ataur.
Rahman, Khan Bahadur Mukhlesur.
Rashid, Khan Bahadur Kazi Abdur.
Roy, Rai Bahadur Radhica Bhusan.
Roy Chowdhury, Mr. Krishna Chandra.
Scott-Kerr, Mr. W. F.
Shamsuzzoha, Khan Bahadur M.
Singh Roy, Mr. Saileswar.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 10 stand part of the Bill.

(The motion was agreed to.)

Clause 11.

Mr. PRESIDENT: Clause 11 stand part of the Bill.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move a short-notice amendment that in clause 11 of the Bill, for the word "his" in line 4, the word "a" shall be substituted.

The object of this amendment is this. The applicability of this section depends on a money-lender having his principal place of business; but it might be difficult to find out whether a man's place of business is his principal place of business or not. According to this amendment, a man having any place of business will come within the mischief of the section. It is to clear up this difficulty that the amendment has been moved.

Mr. PRESIDENT: Amendment moved: that in clause 11 of the Bill, for the word "his" in line 4, the word "a" shall be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that in clause 11 of the Bill, for the word "his" in line 4, the word "a" shall be subsituted.

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 11 stand part of the Bill.

(The motion was agreed to.)

Clause 12.

Mr. PRESIDENT: Clause 12 stand part of the Bill.

Khan Bahadur NAZIRUDDIN AHMAD: I beg to move that in clause 12 of the Bill, the word "the" appearing in line 1, be omitted.

The clause begins thus: "On receipt of the application". Now, I want to remove the word "the" before the word application. If my amendment is accepted, the clause would read "On receipt of an application, etc., etc.". It is only a verbal alteration.

Mr. PRESIDENT: Amendment moved: that in clause 12 of the Bill, the word "the" appearing in line 1, be omitted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that in clause 12 of the Bill, the word "the" appearing in line 1, be omitted.

(The amendment was agreed to.)

The question before the House is: that clause 12 stand part of the Bill.

(The motion was agreed to.)

Clause 13.

Mr. PRESIDENT: Clause 13 stand part of the Bill.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I wish to move an amended amendment.

Mr. PRESIDENT: Then you don't want to move amendment No. 262 of the Consolidated List.

Khan Bahadur NAZIRUDDIN AHMAD: Instead of that, I want to move another of which I have given notice.

Mr. PRESIDENT: All right.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move that for sub-clause (*1*) of clause 13 of the Bill, the following be substituted, namely:—

"(*1*) No Court shall pass a decree or order in favour of a money-lender in any suit for the recovery of a loan advanced after the date notified under section 8, or in any suit for the enforcement of an agreement entered into or security taken, or for the recovery of any security given, in respect of such loan, unless the Court is satisfied that, at the time or times when the loan or any part thereof was advanced, the money-lender held an effective license."

Sir, I think I should explain my amendment. Before doing that, I should submit that the Bill provides for certain duties on the part of a money-lender. It requires him to take out a licence under clause 8 and clause 13(*1*) provides a penalty for lending money without taking out a licence. Under clause 8, the requirement of taking out a licence depends on certain factors. It says that the Act must be passed and then a time must be fixed by the Government which must not be less

than six months. After the expiration of the period, every man trying to do money-lending business must take out a licence. So, the requirement of taking out a licence arises at least six months after the commencement of the Act. The clause as it stands is to this effect: "No Court shall pass a decree or order in favour of a money-lender in any suit to which this Act applies", and so on.

The expression "suit to which this Act applies", has been defined in the Bill. It relates to suits which arose in the past, that is all suits which were pending on the 1st January, 1939, and suits instituted later on Such suits include *past suits* which cannot be penalised. But the sub-clause in question should only apply to those persons who would lend money after the expiration of the period laid down in clause 8. The expression "suit to which this Act applies" provides wrong test to begin with and would be misleading. The phraseology of the amendment is simple and direct and would be easily intelligible. There are two other amendments which aim at remedying the same state of affairs. The amendment that I submitted was objected to by the Hon'ble the Judicial Minister on certain minor grounds and I was, therefore, referred to the Secretary to the Legislative Department, Mr. Baker. He went through the draft and revised it and it is this revised draft that I am submitting to the House. It satisfies me and the party to which I have the honour to belong This is an important drafting amendment aiming at a real clarification of the text. I hope it will be accepted.

Sir, after I have moved my amendment, some minor verbal alterations have been suggested to me by the Hon'ble the Judicial Minister, and I am prepared to accept them. If I get your permission, I may move the amended draft.

Mr. PRESIDENT: If it is a verbal amendment and is intended to improve the phraseology of this clause, then the Chair is agreeable to allow it.

Khan Bahadur NAZIRUDDIN AHMAD: Yes, Sir, it is a verbal amendment and improves the text.

Mr. PRESIDENT: All right. What is the amendment?

Khan Bahadur NAZIRUDDIN AHMAD: I beg to move that for sub-clause (*1*) of clause 13 of the Bill, the following be substituted, namely:—

"(*1*) No Court shall pass a decree or order in favour of a money-lender in any suit instituted by a money-lender for the recovery of a loan advanced after the date notified under section 8, or in any suit instituted by a money-lender for the enforcement of an agreement entered into or security taken, or for the recovery of any security given, in respect of such

loan, unless the Court is satisfied that, at the time or times when the loan or any part thereof was advanced, the money-lender held an effective licence."

Mr. PRESIDENT: Amendment moved: that for sub-clause (*1*) of clause 13 of the Bill, the following be substituted, namely:—

"(*1*) No Court shall pass a decree or order in favour of a money-lender in any suit instituted by a money-lender for the recovery of a loan advanced after the date notified under section 8, or in any suit instituted by a money-lender for the enforcement of an agreement entered into or security taken, or for the recovery of any security given, in respect of such loan, unless the Court is satisfied that, at the time or times when the loan or any part thereof was advanced, the money-lender held an effective licence."

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that for sub-clause (*1*) of clause 13 of the Bill, the following be substituted, namely:—

"(*1*) No Court shall pass a decree or order in favour of a money-lender in any suit instituted by a money-lender for the recovery of a loan advanced after the date notified under section 8, or in any suit instituted by a money-lender for the enforcement of an agreement entered into or security taken, or for the recovery of any security given, in respect of such loan, unless the Court is satisfied that, at the time or times when the loan or any part thereof was advanced, the money-lender held an effective licence."

(The amendment was agreed to.)

Mr. PRESIDENT: Order, order. The effect of carrying this amendment will be that other amendments to sub-clause (*1*) of clause 13 of the Bill will fall through. So, we shall now take up amendment No. 268 which deals with sub-clause (*2*).

Khan Bahadur NAZIRUDDIN AHMAD: Sir, with regard to amendment No. 268, I do not want to move paragraphs (*i*) and (*iii*). With regard to paragraph (*ii*), I shall move something which will be consequential to what we have just accepted. I beg to move that in sub-clause (*2*) of clause 13 of the Bill, for the words "this Act" appearing in line 1, the word, brackets and figure "sub-section (*1*)", be substituted.

Mr. PRESIDENT: Amendment moved: that in sub-clause (2) of clause 13 of the Bill, for the words "this Act" appearing in line 1, the word, brackets and figure "sub-section (*1*)", be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*2*) of clause 13 of the Bill, for the words "this Act", appearing in line 1, the word, brackets and figure "sub-section (*1*)", be substituted.

(The amendment was agreed to.)

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I made a mistake. I shall also move part (*iii*) of amendment No. 268.

Mr. NARESH NATH MOOKERJEE: It is passed already.

Khan Bahadur NAZIRUDDIN AHMAD: No, it is not yet passed. Sir, I beg to move that in sub-clause (*2*) of clause 13 of the Bill, for the words "had not held" appearing in line 2, the words "did not hold" be substituted.

Sir, it is only proposing a simple past tense for the plu-perfect tense.

Mr. PRESIDENT: Amendment moved: that in sub-clause (2) of clause 13 of the Bill, for the words "had not held" appearing in line 2, the words "did not hold" be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*2*) of clause 13 of the Bill, for the words "had not held" appearing in line 2, the words "did not hold" be substituted.

(The amendment was agreed to.)

Mr. PRESIDENT: Then we come to amendment No. 269.

Rai SURENDRA NARAYAN SINHA, Bahadur: Sir, that has been accepted.

Mr. NARESH NATH MOOKERJEE: You want to take the credit for yourself. (Laughter.)

Mr. PRESIDENT: Then we come to amendment No. 272 as Nos. 270 and 271 are not moved.

Mr. LALIT CHANDRA DAS: Sir, I beg to move that in sub-clause (2) of clause 13 of the Bill, the words "three times" in line 6, be omitted.

Sir, this sub-clause (2), of clause 13 of the proposed Act deals with penalty, and the penalty that is stated in sub-clause (2) is that it should not exceed three times the amount of the licence fee specified in section 10. My amendment is for the omission of the words "three times", so that if this amendment is accepted the penalty will be a like amount of the licence fee. The money-lender will have to pay the amount of the licence fee plus a penalty of like amount and not three times as stated in the sub-clause, and therefore, Sir, my amendment is that the words "three times" be omitted.

Mr. PRESIDENT: Amendment moved: that in sub-clause (2) of clause 13 of the Bill, the words "three times" in line 6, be omitted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose it because my friend probably thinks that in every case three times the penalty will be imposed. But what we have provided in the Bill is only a sum not exceeding three times. It may be less.

Mr. LALIT CHANDRA DAS: It may also be three times.

Mr. PRESIDENT: The question before the House is: that in sub-clause (2) of clause 13 of the Bill, the words "three times" in line 6, be omitted.

(The amendment was negatived.)

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I beg to move that in sub-clause (2) of clause 13 of the Bill, for the words "three times" in line 6, the word "twice", be substituted.

Sir, the penalty of paying three times the amount of the original licence fee by way of penalty is somewhat vindictive. The harshness of the proposal will be somewhat lessened if we reduce the amount to double of the original licence fee.

Mr. PRESIDENT: Amendment moved: that in sub-clause (2) of clause 13 of the Bill, for the words "three times" in line 6, the word "twice", be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose it exactly on the same ground as that of the last amendment.

Mr. PRESIDENT: The question before the House is: that in sub-clause (2) of clause 13 of the Bill, for the words "three times" in line 6, the word "twice", be substituted.

(The amendment was negatived.)

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move that in sub-clause (3) of clause 13 of the Bill, after the word, brackets and figure "sub-section (2)", appearing in line 2, the words "or within such further time as the Court may allow", be inserted.

Sir, the effect of the amendment would be that in case the plaintiff fails to pay accidently the amount declared by the Court on the date appointed, some relief may be given by the Court and the exercise of discretion is provided for by this amendment.

Mr. PRESIDENT: Amendment moved: that in sub-clause (3) of clause 13 of the Bill, after the word, brackets and figure "sub-section (2)" appearing in line, 2, the words "or within such further time as the Court may allow", be inserted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: I accept it.

Mr. PRESIDENT: The question before the House is: that in sub-clause (3) of clause 13 of the Bill, after the word, brackets and figure "sub-section (2)" appearing in line 2, the words "or within such further time as the Court may allow", be inserted.

(The amendment was agreed to.)

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move that in sub-clause (3) of clause 13 of the Bill, for the words "to hear" appearing in line 4, the word "with" be substituted.

Sir, the unamended portion of the clause is to this effect, viz., that the Court shall proceed to hear the suit. The clause, if amended, will stand like this, viz., the Court shall proceed with the suit. "Hearing" means hearing arguments and taking evidence but the expression "proceeding with a suit" is of wider connotation. This is only a drafting amendment.

Mr. PRESIDENT: Amendment moved: that in sub-clause (3) of clause 13 of the Bill, for the words "to hear" appearing in line 4, the word "with", be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*3*) of clause 13 of the Bill, for the words "to hear", appearing in line 4, the word "with", be substituted,

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is that clause 13 stand part of the Bill.

(The motion was agreed to.)

Clause 14.

Mr. PRESIDENT: Clause 14 stand part of the Bill.

Mr. RANAJIT PAL CHOUDHURY: Sir, I beg to move that in sub-clause (*1*) of clause 14 of the Bill, after the word "licence" in line 2, the words "in respect of the particular transaction only but shall not be debarred during the pendency of the disqualification from proceeding legally from realising his dues on other transactions already undertaken", be inserted.

This is a very important amendment and I think there has been a bit of an oversight in drafting this Bill, because I am sure Government does not mean to debar those transactions for which there has not been any remedy. The object of this amendment is only to disqualify the money-lender from realising his money for that particular transaction which might have been irregular. I do not want by this amendment to debar the money-lender from getting himself debarred in all transactions if he is disqualified in one particular transaction. A money-lender might be dealing in thousands of rupees and he might have hundreds of transactions. If he gets debarred in one solitary transaction, the Bill as it stands at present endangers him to get himself debarred from other transactions as his licence is liable to be cancelled, and I am sure that was not the intention of Government. Besides, it might be in many cases not due to the fault of the money-lender himself. It might be that his officers through oversight may make a mistake in one particular transaction. That should not in all conscience debar him from his other transactions. If it does, it would be reducing him to utter poverty and helplessness. Therefore, I would appeal to the House in all the earnestness to study this amendment very carefully and then to give their decision. With these words, I move my amendment.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) of clause 14 of the Bill, after the word "licence" in line 2, the words "in respect of the particular transaction only but shall not be debarred during the pendency of the disqualification from proceeding legally from realising his dues on other transactions already undertaken" be inserted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: I oppose the amendment because my friend is under the impression that a money-lender would have to take hundreds of licences all over the country and for each transaction he will take a fresh licence. It is not merely a question of licence. There may also be other causes for which a money-lender may be punished. But so far as licence is concerned, one licence for the whole province will do. If that licence has not been taken, it vitiates the loan itself. In these circumstances, I don't believe that there is any meaning in the contention of my friend that transactions taking place in different stations will be affected, inasmuch as only one licence has to be taken by the money-lender.'

With these words, I oppose the amendment.

Mr. RANAJIT PAL CHOUDHURY: May I further elucidate my point?

Mr. PRESIDENT: Order, order. No member can make two speeches.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, the amendment has been proposed on a misconception. As my hon'ble friend has particularly addressed us and asked us to consider carefully the clause and the amendment, I have carefully considered the whole thing. My learned friend's impression is that the disqualificatin attaches to particular transactions. It seems to me that the honourable member thinks that those particular transactions relate to money-lending transactions. As a matter of fact, a plain reading of the clause will show that the disqualification will follow from particular types of misconduct or particular classes of convictions in criminal courts involving moral turpitude. Those disqualifying circumstances have nothing to do with any particular transaction of money-lending. They relate to the general character of the man and not to money-lending transactions as such. This being the state of affairs, the amendment is misconceived.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*) of clause 14 of the Bill, after the word "licence" in line 2, the words "in respect of the particular transaction only but shall not be

debarred during the pendency of the disqualification from proceeding legally from realising his dues on other transactions already undertaken", be inserted.

The House then divided with the following result:—

AYES—11.

Das, Mr. Lalit Chandra.
Datta, Mr. Bankim Chandra.
Maitra, Rai Bahadur Brojendra Mohan.
Mookerjee, Mr. Naresh Nath.
Mookerji, Dr. Radha Kumud.
Pal Choudhury, Mr. Ranajit.
Poddar, Mr. H. P.
Roy, Mr. Amulya Dhone.
Sarker, Rai Sahib Indu Bhusan.
Sinha, Rai Bahadur Surendra Narayan.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.

NOES—31.

Ahmad, Khan Bahadur Naziruddin.
Ahmed, Mr. Meshahuddin.
Ahmed, Mr. Nur.
Baksh, Mr. Kader.
Barua, Dr. Arabinda.
Choudhury, Mr. Moazzemali.
Chowdhury, Khan Sahib Abdul Hamid.
Chowdhury, Mr. Khorshed Alam.
Chowdhury, Mr. Hamidul Huq.
Chowdhury, Khan Bahadur Rezzaqui Haider.
D'Rozario, Mrs. K.
Ellahi, Khan Bahadur S. Fazal.
Haider, Nawabzada Kamruddin.
Hosain, Khan Bahadur Saiyed Muazzamuddin.
Hossain, Mr. Mohamed.
Huq, Khan Bahadur Syed Muhammad Ghaziul.
Ibrahim, Khan Bahadur Maulvi Mohammad.
Kabir, Mr. Humayun.
Khan, Khan Bahadur Muhammad Asaf.
Khan, Maulana Muhammad Akram.
Mackay, Mr. H. C. G.
Molla, Khan Sahib Subidali.
Momin, Begum Hamida.
Rahman, Khan Bahadur Ataur.
Rahman, Khan Bahadur Mukhlesur.
Rashid, Khan Bahadur Kazi Abdur.
Ross, Mr. J. B.
Roy, Rai Bahadur Radhica Bhusan.
Scott-Kerr, Mr. W. F.
Shamsuzzoha, Khan Bahadur M.
Singh Roy, Mr. Saileswar.

(The amendment was negatived.)

Khan Bahadur NAZIRUDDIN AHMAD: Sir, in place of my amendment in the Consolidated List, I shall move an altered amendment.

Mr. PRESIDENT: Is it a verbal amendment?

Khan Bahadur NAZIRUDDIN AHMAD: Yes, Sir, and it improves the text.

Mr. PRESIDENT: All right. What is your amendment?

Khan Bahadur NAZIRUDDIN AHMAD: I beg to move that at the end of sub-clause (*1*)(*b*) of clause 14 of the Bill, the following words be added, namely:—

"and if such conviction has not been set aside by any Court of appeal or revision under any law for the time being in force."

Sir, the purpose on the amendment is obvious. The clause says that if a man is convicted of any scheduled offence, he is disqualified by reason of the conviction. But if the conviction is set aside on appeal or revision, that conviction should obviously cease to be a conviction within the meaning of the Bill. My amendment makes this clear.

Mr. PRESIDENT: Amendment moved: that at the end of sub-clause (*1*)(*b*) of clause 14 of the Bill, the following words be added, namely:—

"and if such conviction has not been set aside by any Court of appeal or revision under any law for the time being in force."

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept the amendment.

Mr. PRESIDENT: The question before the House is: that at the end of sub-clause (*1*)(*b*) of clause 14 of the Bill, the following words be added, namely:—

"and if such conviction has not been set aside by any Court of appeal or revision under any law for the time being in force."

(The amendment was agreed to.)

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I beg to move that in sub-clause (*2*) of clause 14 of the Bill, all the words beginning with "or to the time", appearing in line 6, up to the end of the sub-clause, be omitted.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*2*) of clause 14 of the Bill, all the words beginning with "or to the time", appearing in line 6, up to the end of the sub-clause, be omitted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose it.

Mr. PRESIDENT: The question before the House is: that in sub-clause (2) of clause 14 of the Bill, all the words beginning with "or to the time" appearing in line 6, up to the end of the sub-clause, be omitted.

(The amendment was negatived.)

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Sir, I beg to move that at the end of clause 14 of the Bill, the following proviso be added, namely:—

"Provided such disqualification shall not preclude the money-lender from instituting suits in respect of loans advanced by him before the date of the order of such cancellation."

Sir, my amendment is most reasonable and most plain. A money-lender for not having taken out a licence is debarred from instituting suits. By way of illustration I may say that a money-lender advances money to several persons. He institutes a suit against one person but at the time if it turns out that for some reason or other he has not taken out a licence he is debarred from suing, but that ought not to preclude him from instituting other suits for the money which he has advanced to several other persons. In that case, Sir, great injustice will be done to him. My object in moving this amendment is that if he is debarred he should be debarred from instituting that particular suit only and not from other suits to be instituted for the money advanced by him to different persons. With these words, Sir, I commend my motion.

Mr. PRESIDENT: Amendment moved: that at the end of clause 14 of the Bill, the following proviso be added, namely:—

"Provided such disqualification shall not preclude the money-lender from instituting suits in respect of loans advanced by him before the date of the order of such cancellation."

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose it.

Dr. RADHA KUMUD MOOKERJI: Sir, may we know the reason for his opposing it?

Mr. PRESIDENT: The Hon'ble Minister is not bound to give any reason.

Khan Bahadur HAZIRUDDIN AHMAD: Sir, I submit that this amendment is not necessary. The wishes of the Raja Bahadur have already been provided for. Clause 8 says that no one shall conduct a money-lending business unless he takes a licence. By the amendment of clause 13(*1*) which has been just carried it has been made clear that the requirement of the licence begins from the date which is notified under clause 8. So, a disqualified licence is not disqualified relating to his past money-lending. This clause says that no one *shall conduct*

money-lending business without a licence. So, a man who has a licence and lends money, does not lose his right to sue for the loan merely because, at a later date, the licence is cancelled. I submit, Sir, that the position has been made absolutely clear by the amendment clause 13(*1*) which the House has accepted. So, this amendment is not necessary.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Cancellation is for future money-lending.

Khan Bahadur NAZIRUDDIN AHMAD: Yes, it is for future money-lending, and does not affect previous loans. It hits only suits for loans advanced after the cancellation.

Mr. PRESIDENT: The question before the House is: that at the end of clause 14 of the Bill, the following proviso be added, namely:—

> "Provided such disqualification shall not preclude the money-lender from instituting suits in respect of loans advanced by him before the date of order of such cancellation."

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 14, as amended, stand part of the Bill.

(The motion was agreed to.)

Mr. PRESIDENT: The Chair has been given to understand that the Hon'ble Minister is not ready to proceed with the other clauses to-day. So, the House stands adjourned till 2-15 p.m. to-morrow.

Adjournment.

The Council then adjourned till 2-15 p.m. on Friday, the 5th January, 1940.

Members absent.

The following members were absent from the meeting keld on the 4th January, 1940:—

(1) Rai Bahadur Manmatha Nath Bose.
(2) Mr. Humayun Reza Chowdhury.
(3) Mr. Narendra Chandra Datta.
(4) Mr. Kamini Kumar Dutta.
(5) Khan Bahadur Alhaj Khwaja Muhammad Esmail.
(6) Mr. Kanai Lal Goswami.
(7) Alhaj Khan Bahadur Shaikh Muhammad Jan.
(8) Khan Bahadur M. Abdul Karim.
(9) Rai Bahadur Satis Chandra Mukherji.
(10) Mr. E. C. Ormond.
(11) Mr. Sachindra Narayan Sanyal.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Friday, the 5th January, 1940, at 2-15 p.m. being the nineteenth day of the Third Session, pursuant to section 62 (2) (a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Election of the District Education Committee of Noakhali district.

120. Mr. LALIT CHANDRA DAS: (a) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether it is a fact that in the District Education Committee of the Noakhali District Board of which Khan Bahadur Rezzaqul Haider Choudhury, M.L.C., is the Chairman, Babu Monoranjan Choudhury, M.A., B.L., of the Noakhali Bar, was elected a member and whether it is a fact that the election of Monoranjan Babu for his being a well-known Congressman in that district, was set aside? If not, why did not the Commissioner of the Chittagong Division or the Government accept his election to that Committee?

(b) Is it a fact that Maulvi Golam Sarwar, M.L.A., has been nominated a member of the Noakhali Primary School Board by the Government?

(c) Is it not a fact that political and communal considerations influenced the decision of the Government in these two instances? Why could not Monoranjan Babu ultimately get into the District Education Committee while Maulvi Golam Sarwar was allowed to be taken in on the School Board?

(d) Is it true that Maulvi Golam Sarwar has not even passed the Matriculation Examination nor is he a passed Maulvi?

The Hon'ble Mr. TAMIZUDDIN KHAN (on behalf of the Hon'ble Mr. A. K. Fazlul Huq): (a) to (d) Steps have been taken for the collection of the information which is not yet available.

Mr. LALIT CHANDRA DAS: Is it a fact that there are altogether 7 members in the District School Committee of which my friend Mr. Rezzaqul Haider Choudhury happens to be the Chairman and that all of them are Moslems?

The Hon'ble Mr. TAMIZUDDIN KHAN: The Chairman is Mr. Rezzaqul Haider Choudhury. I do not know whether the other questions asked are correct.

Mr. LALIT CHANDRA DAS: Is it a fact that all the members are Moslems and that there is not a single Hindu on the Committee?

The Hon'ble Mr. TAMIZUDDIN KHAN: I do not know. I want notice.

Mr. LALIT CHANDRA DAS: Is it true that Maulvi Golam Sarwar has not even passed the Matriculation Examination, nor is he a passed Maulvi? Does that require collection of information? Could not information be made available within the time the question was put?

The Hon'ble Mr. TAMIZUDDIN KHAN: Information on all the points has not yet become available. That is the reason why the question has not been answered. The whole question would be answered together.

Dr. RADHA KUMUD MOOKERJI: If the Chairman of the Education Committee is here, may we have an answer from him?

Mr. PRESIDENT: Order, order. The Hon'ble Minister has made it clear that information is being gathered and that it will be furnished to the House later on. You can put your supplementary questions then.

The appointment of the Parliamentary Secretaries.

121. Mr. LALIT CHANDRA DAS (on behalf of Mr. Kamini Kumar Dutta): Will the Hon'ble Minister in charge of the Home Department please state—

(*a*) what are the duties entrusted to the Parliamentary Secretaries whose appointments were announced recently;

(*b*) what were the grounds for giving different scales of salaries to different Secretaries;

(*c*) if they will be required to discharge the functions of Government Whips in addition to their other duties;

(*d*) what is the reason for giving Mr. Mesbahuddin Ahmed a salary which is just half of the salary to be drawn by Mr. Sahabuddin;

(*e*) if Mr. Ahmed will now be appointed as the Leader of the Upper House; and

(*f*) whether the Government is going to appoint more Parliamentary Secretaries or Parliamentary Assistant Secretaries?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): (*a*) To assist Ministers in their "parliamentary" work in the Legislature.

(*b*) and (*d*) The scales were fixed with reference to the time and labour involved. It was recognised that the duties of Mr. Mesbahuddin Ahmed, dealing with a smaller House, would not be so onerous as Mr. Sahabuddin's.

(*c*) Yes.

(*e*) and (*f*) This is not at present under contemplation.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state the names of the gentlemen who have been appointed Parliamentary Secretaries in the Lower House?

The Hon'ble Khwaja Sir NAZIMUDDIN; Sir, is it not the convention that what happens in the other place is not referred to in this House?

Mr. LALIT CHANDRA DAS: I want to know the names of the gentlemen who have been appointed Parliamentary Secretaries of the Legislature.

The Hon'ble Khwaja Sir NAZIMUDDIN: What is your ruling, Sir?

Mr. PRESIDENT: He only wants the names of Parliamentary Secretaries of the Legislature.

The Hon'ble Khwaja Sir NAZIMUDDIN: Then the question should be who are the Parliamentary Secretaries that have been appointed?

Mr. LALIT CHANDRA DAS: That is the question I wanted to ask.

The Hon'ble Khwaja Sir NAZIMUDDIN: Mr. Shahabuddin, Mr. Mesbahuddin Ahmed, and Nawabzada Nasarullah.

Mr. LALIT CHANDRA DAS: Has the work of the Ministers become so heavy that Parliamentary Secretaries have become necessary in the meantime?

The Hon'ble Khwaja Sir NAZIMUDDIN: May I refer the hon'ble member to my reply to (*a*)?

Mr. LALIT CHANDRA DAS: May I ask the Hon'ble Minister whether it is a fact that Mr. Shahabuddin has got an Assistant?

The Hon'ble Khwaja Sir NAZIMUDDIN: There are no other Parliamentary Secretaries beyond those that have been mentioned.

Mr. LALIT CHANDRA DAS: I want to know whether an assistant has been appointed to assist Mr. Shahabuddin to help him in his parliamentary work.

The Hon'ble Khwaja Sir NAZIMUDDIN: Not that I know of.

Mr. LALIT CHANDRA DAS: Is it a fact that these gentlemen are connected with the Hon'ble Nawab Bahadur of Dacca?

The Hon'ble Khwaja Sir NAZIMUDDIN: I do not think all of them are; excepting Mr. Mesbahuddin Ahmed who is distantly related, all the others are.

Mr. LALIT CHANDRA DAS: Is it a fact that Mr. Mesbahuddin Ahmed is a relation of the Nawab of Dacca?

The Hon'ble Khwaja Sir NAZIMUDDIN: Yes, distant.

Mr. LALIT CHANDRA DAS: Could not the work of Parliamentary Secretaries have been given to people who are not connected with Ministers in any way?

The Hon'ble Khwaja Sir NAZIMUDDIN: People most suitable for these posts have been selected.

The political prisoner Sj. Ambika Chakrabartti.

122. Mr. LALIT CHANDRA DAS: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state whether the political prisoner Sj. Ambika Chakrabartti of the Chittagong Armoury Raid Case is suffering from very serious and continued and contagious illness? If so, what is the disease?

(*b*) Is he now hovering between life and death?

(*c*) What is his weight now and what was his weight when he entered jail? Will the Hon'ble Minister please place on the table the doctor's history-sheet of his illness? If not, why not?

(*d*) Is it a fact that in enunciating the policy of the release of political prisoners, the Government did lay down the policy of releasing political prisoners suffering from serious and continued illness?

(*e*) Is it a fact that several months back the Advisory Committee recommended the unconditional release of the said prisoner Ambika Chakrabartti? Is it also a fact that his jail conduct has throughout been good?

(*f*) Why has he not been released so long?

(*g*) Does the Government now propose to release him unconditionally if he stays in a sanatorium for treatment and recovery? If not, will the Hon'ble Minister please state the grounds of such refusal?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) He is suffering from continued quiescent pulmonary tuberculosis, diabetes mellitus and defective vision of the right eye. These are neither very serious nor contagious diseases.

(*b*) No.

(*c*) As an undertrial—135 lbs.

On conviction (10th February, 1933)—157 lbs.

Present weight—162 lbs.

No. I do not consider it proper or fair to the prisoner to make his medical history-sheet public in the way proposed.

(*d*) Yes.

(*e*) The Advisory Committee recommended his release on medical grounds. Yes.

(*f*) and (*g*) He at first declined release on conditions; arrangements are now being made to obtain admission for him to a tuberculosis sanatorium for treatment; and Government is prepared to release him on condition of undergoing treatment when or if such accommodation can be procured.

Mr. LALIT CHANDRA DAS: Arising out of reply to paragraphs (*f*) and (*g*), will the Hon'ble Minister be pleased to state whether arrangements have been made complete to get him admitted into a tuberculosis sanatorium for treatment?

The Hon'ble Khwaja Sir NAZIMUDDIN: I do not think that the arrangements are quite complete yet.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state under what authority he says that quiescent pulmonary tuberculosis and diabetes mellitus are not contagious diseases?

The Hon'ble Khwaja Sir NAZIMUDDIN: The authority of medical expert.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state whether the authority of the medical expert referred to by the Hon'ble Minister was actually placed before the Advisory Committee and whether on reading the opinion of the medical expert given in respect of this prisoner the Advisory Committee recommended his release on medical grounds?

The Hon'ble Khwaja Sir NAZIMUDDIN: I do not dispute the fact that the Advisory Committee recommended his release on medical grounds. That has already been replied to in reply (*e*).

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state whether he thinks when he refuses to make his medical history-sheet public that it would, if published, disclose his case to be very serious requiring immediate release?

The Hon'ble Khwaja Sir NAZIMUDDIN: This is not the only case in which Government have refused to disclose medical history-sheet. That has been the consistent policy of Government throughout in all such cases.

Mr. LALIT CHANDRA DAS: I do not want a general answer. I am asking with regard to this particular prisoner, whether the Minister is refusing to make the medical history-sheet public because it would, if published, disclose that he is suffering from contagious diseases?

Mr. PRESIDENT: The Hon'ble Minister has made it clear that in the public interest its publication is being refused. What is the use of repeating the same question?

Mr. RANAJIT PAL CHOUDHURY: In which sanatorium is his admission being arranged for treatment?

The Hon'ble Khwaja Sir NAZIMUDDIN: We tried two or three sanatoria in different provinces; unfortunately, none of them would have him. We are now trying in a sanatorium, I think, in Kurseong.

Mr. RANAJIT PAL CHOUDHURY: Were any negotiations carried on with the Sanatorium at Itki?

The Hon'ble Khwaja Sir NAZIMUDDIN: I am not sure about that. But all the sanatoria in the United Provinces have refused.

Dr. RADHA KUMUD MOOKERJI: May I know when the disease of this prisoner was known to Government?

The Hon'ble Khwaja Sir NAZIMUDDIN: For a long time.

Dr. RADHA KUMUD MOOKERJI: May I know whether the Government has been expediting the removal of this sick prisoner to a sanatorium as soon as possible?

The Hon'ble Khwaja Sir NAZIMUDDIN: Since Government decided to release this prisoner, they have been taking steps to find a place for him in a sanitorium, but unfortunately it has not been possible to do so because some of the provinces won't have him.

Dr. RADHA KUMUD MOOKERJI: May I know whether the Jadavpur Tuberculosis Sanatorium which is nearer home was approached for his admission?

The Hon'ble Khwaja Sir NAZIMUDDIN: No, Sir, for obvious reasons.

Dr. RADHA KUMUD MOOKERJI: May I know the reasons?

The Hon'ble Khwaja Sir NAZIMUDDIN: Government do not consider it desirable to have him there.

Dr. RADHA KUMUD MOOKERJI: I do not really honestly follow the answer. May I have more light thrown on the subject, because it is a very well-known and well-equipped institution which Government themselves are supporting by subventions, where they have a right to claim a bed.

The Hon'ble Khwaja Sir NAZIMUDDIN: It is not on the ground that the sanatorium at Jadavpur is in any way not capable of treating him; but for political reasons it is not advisable to place him there.

Dr. RADHA KUMUD MOOKERJI: If the Government thinks it safe to release the prisoner on medical grounds, will not the Government find it safe to put him in a sanatorium under the control of the Calcutta authorities?

The Hon'ble Khwaja Sir NAZIMUDDIN: That is a logic which I cannot follow.

Dr. RADHA KUMUD MOOKERJI: May I know how political stigma attaches to a hospital?

The Hon'ble Khwaja Sir NAZIMUDDIN: It has nothing to do with the hospital. Jadavpur is too near Calcutta where the prisoner will be accessible to other people. There is no rule to prevent other people from going and seeing him there.

Dr. RADHA KUMUD MOOKERJI: I now understand.

The Hon'ble Khwaja Sir NAZIMUDDIN: Thanks.

Mr. RANAJIT PAL CHOUDHURY: How long ago did Government contemplate his release?

The Hon'ble Khwaja Sir NAZIMUDDIN: They accepted the recommendation of the Advisory Committee. The answer is there in (*e*).

Khan Bahadur NAZIRUDDIN AHMAD: Will the Hon'ble Minister be pleased to state the grounds on which sanatoria in other provinces have refused to accept him?

Mr. RANAJIT PAL CHOUDHURY: On political grounds!

The Hon'ble Khwaja Sir NAZIMUDDIN: May be, I do not know. But they do not want him there.

Mr. RANAJIT PAL CHOUDHURY: May I know the approximate date when Government contemplated his release? Was it after the recommendation of the Advisory Committee?

The Hon'ble Khwaja Sir NAZIMUDDIN: Immediately after. There was no delay. As a matter of fact, Government was trying to find him a place before the Committee made their recommendations.

Mr. RANAJIT PAL CHOUDHURY: Did Government detect the disease before or after the decision of the Advisory Committee?

The Hon'ble Khwaja Sir NAZIMUDDIN: This prisoner has been ailing for a very long time—most of the time he has been in custody. There is no question of detection of the disease. The reason which the Government accepted is the medical ground on which the Committee recommended his release. He had been suffering from continued illness. That was the justification for recommending him for release, otherwise he would not have been recommended for premature release in view of his past history.

Oppression on the people of Chakaria, Chittagong.

123. Mr. NUR AHMED: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state if he has received a copy of the report, dated the 25th September, 1939, signed by M. Ahmed Chowdhury, Chairman, Non-Official Enquiry Commission, Chakaria, dealing with various acts of oppressions practised by the Lama thana staff on the people of Chakaria thana of Chittagong district?

(*b*) If so, will the Hon'ble Minister be pleased to state if he has taken any step to stop this sort of oppression on the people of Chakaria thana? If not, why not?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) and (*b*) The District Magistrate has been asked for a report and a reply will be given on its receipt.

The Bengal Public Demands Recovery (Amendment) Bill, 1939.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: May I with your permission, Sir, give notice that during the current session of the Bengal Legislative Council, I shall move for the consideration and passing of the Bengal Public Demands Recovery (Amendment) Bill, 1939, as passed by the Bengal Legislative Assembly, on a date to be fixed.

Non-official Resolutions.

Mr. PRESIDENT: The House will now resume further consideration of the following resolution moved by Mr. Kamini Kumar Dutta on the 8th December, 1939:—

This Council is of opinion that the Government of Bengal should move the authorities concerned for obtaining an Order in Council under the provisions of section 290 of the Government of India Act, 1935, for altering the boundaries of the Province of Bengal on the basis of linguistic affinities and the re-union of all Bengali-speaking areas in the province of Bengal.

Dr. RADHA KUMUD MOOKERJI: Sir, I am sorry that I could not be present at the meeting of the Council when this resolution was first moved. So I failed to listen to the speeches that were delivered in this connection on that date. Therefore, I am afraid that perhaps I may be found guilty of repetition and I hope that I may be excused for the explanation that I have given.

It seems to me that this resolution has behind it certain accepted principles of administration and constitution, if I may say so. The present Government of India Act started by making certain alterations of the existing boundaries of some of the provinces and the alteration of these boundaries took place under the well-known principle that the population of those provinces should be rendered as homogeneous as possible, on the basis of linguistic affinity. Over and above this accepted principle of every constitution in modern states, the Indian National Congress has also lent its support to the recognition of this very important constitutional principle. The National Congress has passed a resolution after a good deal of deliberation that the Congress stands for the creation of linguistic provinces throughout India. On account of this position of the Congress, there has been going on an agitation in certain parts of the country for the formation of new provinces, and in that connection we all know the agitation that is being so vigorously carried on by the people of Andhra. The people of the linguistic area of Andhra are Telegus. They want a province for themselves and the demand after being passed by the Madras Legislative Assembly has now been submitted to the Secretary of State for final decision.

Similarly, there have been going on demands for the creation of other linguistic provinces like Maharastra and Karnatak. As early as the days of the Simon Commission, we find that there is a distinct movement going on in India for the creation of linguistic provinces. The Statutory Commission over which Sir John Simon presided—that Statutory Commission laid down very clearly its recommendation that before Federation makes a start in India, the provinces of India should be carefully examined with reference to the boundaries and more compact and homogeneous provinces should be created in order that in future the problems that are now disturbing the political sphere may not crop up. So, this was a definite recommendation of the Simon Commission. I should like to point out to the members of this House that in that recommendation the Simon Commission made a reference to the boundaries of Bengal. I should like to go back a little further and to remind the House of the solemn promises that were given by no less a person than His Majesty the King-Emperor of those days when he was announcing the annulment of the partition of Bengal. The King-Emperor then said that although for the time being the boundaries of Bengal, Bihar and Assam were to be fixed on a rough and ready basis, His Majesty was pleased to say at the same time that a regular Boundary Commission would afterwards be set up by His Government in order to go through the whole problem of the disputed boundaries that separate these several provinces which have arisen out of the annulment of the partition of Bengal. Therefore, I say that this question of boundaries of Bengal has been a live question since about 1911 or 1912.

Unfortunately, in the framing of the constitution the authorities forgot the claims of Bengal for a reconsideration of her boundaries. In the meanwhile, certain new provinces were created. There was the province of Orissa which was created in order to give expression to this principle of linguistic unity on which alone the homogeneity of a province should be based. Similarly, the province of Sind was created in obedience to the same political principle, although in creating these new provinces the Government recognised that they would not be able to stand on their legs as self-contained financial units. On the contrary, Government gave expression to this linguistic unity of a province even at the cost of supporting these two new provinces by means of central subventions. So, what I mean to say is that Government does recognise the principle of linguistic unity in the constitution of a province, and the recognition has been carried to such an extent that financial considerations had to give way before these paramount linguistic considerations. The province of Sind has been created on the basis of central subvention amounting to about a crore of rupees per annum and the province of Orissa has been created on the basis of a subvention which is estimated at about 40 lakhs of rupees per annum, although it has been stated that perhaps in a few years the province of Orissa will be enabled to run as a self-supporting province.

Now, Sir, all these good things that are reserved for other provinces have been ruthlessly denied to Bengal. I do not know how Bengal has become a bugbear to the authorities. All kinds of injustices are being heaped upon this province. The province of Bengal has already been robbed of her fair share of revenue. As I have several times pointed out in this very House, compared to Bombay, the province of Bengal has been deprived of nearly half of her due revenue, if I may say so. So, Bengal is still being visited with these injustices, and one of these is that Bengal to-day stands not merely robbed of her proper revenue but Bengal is robbed of her territories. Bengal is losing to other provinces her valuable territory. I mean by territory those areas which have been pronounced administratively and by the census authorities to be strictly Bengali-speaking areas. I would refer in this connection to the latest report of a body of experts—the O'Dennell Committee—which was set up to go into the question of the boundaries as between Orissa and Bihar. In that report you will find the list of the purely Bengali-speaking areas for which other provinces were fighting out their claims. In that connection, when the claims of these rival provinces were being put forward for the possession of these Bengali-speaking areas, the mother province of Bengal was left out in the cold shade of neglect; and eventually some Bengali-speaking areas were annexed to Bihar. Orissa could not get all that she wanted although some Bengali-speaking areas have been annexed to Orissa.

I know that perhaps this resolution may not appear to some of my friends on the opposite side strictly as based on constitutional and scientific principles on the basis of which provinces should be created. But I do hope that all our friends will rise above the exigencies of party politics, for after all party politics is not stationary or stable. It is something which is subject to change and which is strictly transitional. I hope for the days of true democracy in Bengal which would be based upon a common Bengalee citizenship—on the basis of a Parliament where we will abolish all distinctions of religion as between legislators. I hope for that ideal state of things when we shall all be in the Legislature on the basis of our ordinary common nationalism and common citizenship. I hope for the day when all religious labels will be shed outside the Legislature, so that we may feel that when we enter this Parliament of democracy we enter as brothers and friends bound together by common economic and social programmes on which all Bengalees stand united. They stand united even to-day on the basis of these social and economic programmes. I do not see how religion can have any consideration in the formation of the Legislature. I do hope that we will be able to outgrow these backward conditions which militate so strongly against democracy and hoping as I do for those days of genuine democracy, I plead that without caring for the question of the number of heads which you may count—the number of infants, the number of adults—keeping all these questions aside and on the basis of the *status quo*, let us all unite and fight for the restoration to Bengal of those territories which have been severed from her violently by a hasty process of administrative adjustment. For, we have it on the authority of the then Majesty the King-Emperor that all these disputes and difficulties concerning boundaries and frontiers were to be gone into by a separate boundary commission to be set up for this purpose. I, therefore, hope that this resolution on account of its vital constitutional bearings and administrative importance will be accepted unanimously by the members of those Houses and those members who swear by democracy and are anxious for the advent of true democracy on the basis of common Bengali citizenship.

Mr. NUR AHMED: Sir, I rise to oppose this resolution. An appeal has been made, a fervent appeal has been made, to this side of the House by no less a person than my learned friend Dr. Radha Kumud Mookherji—it is all part of the policy—to rise above communal feeling and support this resolution. Let us see what is in the resolution. I say with all respect for my friend and for the hon'ble mover that the resolution is open to objection on many grounds. The resolution says that the boundaries of the Province of Bengal be altered on the basis of linguistic affinities and the re-union of all Bengali-speaking areas. My first objection to the adoption of this

resolution is that it is too vague and too indefinite. My second objection is that it is against the spirit of unity for which we are crying to-day. An appeal has been made by Dr. Mookerjee for unity and for democracy, but this resolution is against the spirit of that unity. It is unfortunate that after the introduction of Provincial Autonomy, cries have been raised for extension of provincial boundaries and re-constitution of the provinces on linguistic basis. It is sad to find that at a time when all over the world there is a cry for international unity, we in India are crying for provincial unity, for parochialism. I am surprised to hear an appeal from the learned Professor in the name of democracy in support of this resolution which is deadly against that very spirit. Though I am thankful to the hon'ble sponsor of the resolution who at the very outset made his position clear by stating that no communal motive had prompted him to move this resolution, yet I must say that there is a lurking suspicion in the minds of many of us that there is some ulterior motive behind this resolution. The agitation has been going on to reduce the majority of Muslims in Bengal into a minority. Though the mover has assured us that it is not his motive, yet we are not convinced of that.

Going into historical facts, I find that the present boundary of Bengal was fixed so long ago as 1874. In that year, Assam was cut off from Bengal. In 1836, other provinces—Chota Nagpur and Orissa—were cut off from Bengal. Form 1874 the present boundaries have been existing. There was of course some alteration in 1905 but that was readjusted in 1912. Sir, there is another objection against the adoption of this resolution which is more technical. It appears from a perusal of section 290 of the Government of India Act that it is a very extraordinary procedure that the mover of the resolution has suggested for adoption. The section says that before any such Order is laid before Parliament, the Secretary of State shall ascertain the opinion of both the Chambers of the Federal Government and also of both Chambers of the provinces concerned. I do not know why my learned friend has come before this House with this resolution and has adopted this extraordinary procedure. I must say that the arguments used in its favour are not convincing. No *prima facie* case has been made out for the support of this resolution. With these words, I oppose it.

The Hon'ble Mr. A. K. FAZLUL HUQ: Sir, this is not the first time that a resolution of this kind has been moved in this Council. I am referring to the predecessor of this Council, the old Council, where this subject was discussed more than once. If I may be permitted to point out to my learned friend who moved this resolution and to those who support it, the real object in moving resolutions of this kind is to get rid of the Muslim majority in Bengal.

Dr. RADHA KUMUD MOOKERJI: No, no.

The Hon'ble Mr. A. K. FAZLUL HUQ: My friends may say "no" at the top of their voice, but there is that communal feeling behind this motion and we propose to resist it.

Mr. SHRISH CHANDRA CHAKRAVERTI: You have already made it clear.

The Hon'ble Mr. A. K. FAZLUL HUQ: We propose to resist that communal feeling on the ground that the object is not to secure administrative efficiency but something to which we cannot consent.

Dr. RADHA KUMUD MOOKERJI: Let us do it on the basis of the Communal Award.

The Hon'ble Mr. A. K. FAZLUL HUQ: Let me point out to my friend, the learned Professor, that at the present moment Bengalis are grouped together, as far as possible, within one geographical boundary. There are a few Bengalis in Chota Nagpur just as there are Bengalis in Orissa, Bengalis in Bihar, Bengalis in the United Provinces. I have found Bengalis also as far as the town of Attock in the North-West Frontier Province. If you want to group all Bengalis within one boundary, I am afraid you will have to extend your arms right and left to the North-West Frontier and to the Eastern Frontier and include everything within one provincial boundary and call it Bengal. The reason why there are a few Bengalis in Chota Nagpur as in other places is due to the obvious fact that these persons migrated there for purposes of trade, commerce, or the professions. Some Bengalis have settled there and that is no reason why the provincial boundaries should be altered so as to bring them within the fold of their own original province. Secondly, I do not think that the Bengalis in Chota Nagpur who are mostly Hindus would very much like the idea of being included within Bengal. In Chota Nagpur, they have got the blessings of Congress Government, and here in Bengal they will have to live under a "reactionary Government" and if they are wise they will keep aloof from Bengal so long as the Legislature of Bengal does not contain a Hindu majority. Let them wait outside Bengal for that day and when that blessed day comes and the Muslims in the Legislature are reduced to a minority, they will be quite welcome. But at the present moment, I do not think they would like to exchange their lot under a Congress Government for a very uncertain lot under a Government which is not only not Congress but opposed to Congress ideas.

Now, Sir, coming to the merits of the question, I understand that the Hon'ble the Home Minister is going to say a few words explaining

Government policy. As a matter of fact, on all such occasions Government do not wish to take sides. They will simply forward the proceedings to the proper authorities for necessary action. It is for this reason that I wish to record my personal opinion on a question like this. I am of the opinion, Sir, that if a principle like this is given effect to, what should really be done is to divide Bengal once again. Because, if you include all these outlying areas, Bengal will be too heavy for one administrative charge.. Let us have something like the *Pakisthan* scheme; let us have the Chittagong Division, the Dacca Division, the Rajshahi Division plus Sylhet formed into one province and we do not very much care what happens to the other half. If that is done——

Mr. SHRISH CHANDRA CHAKRAVERTI: We are quite willing.

The Hon'ble Mr. A. K. FAZLUL HUQ: Your willingness or mine will not very much influence a decision on this issue. I say if things like that could be done, it would be a good thing. We heard the other day the President of the Hindu Mahasabha saying that the Hindus formed one nation. He has given the go-by to the idea of the Indian nation. So, the Hindus form one nation, the Muslims form one nation, and the Christians form one nation.

Dr. RADHA KUMUD MOOKERJI: It is a reaction to Mr. Jinnah's antics.

The Hon'ble Mr. A. K. FAZLUL HUQ: You can have a Hindu nation in the western half. If you want it, let us have it on record, so that those who want to discuss it may certainly take it up.

***Mr. MOAZZAMALI CHOWDHURY :** এই প্রস্তাবের সম্বন্ধে আলোচনা কোরতে গিয়ে আমার মনে হয় যে, নীতির দিক দিয়ে এ বিষয়ে আপত্তি কর্‌বার তেমন কিছু নাই। সাধারণতঃ একভাষা ভাষী লোকদের নিয়ে যে এক একটা প্রদেশ গঠিত হওয়া উচিত, সে বিষয়ে কারো বিশেষ মতদ্বৈধ আছে বোলে আমার মনে হয় না। কিন্তু বর্ত্তমানে এই প্রস্তাব আনা সময়োপযোগী হয়েছে কি না তাহা বিবেচনার বিষয়। এই ধরণের প্রস্তাব আমার মনে পড়ে, বেঙ্গল প্রভিন্সিয়াল কন্‌ফারেন্সের বহরমপুর অধিবেশনে দেশগৌরব শ্রীযুক্ত সুভাষচন্দ্র বসু নিজে সাব্‌জেক্ট কমিটিতে, উপস্থিত কোরেছিলেন, সেই সাব্‌জেক্ট কমিটিতে সভ্য হিসাবে আমিও উপস্থিত ছিলাম এবং বিশেষ কতকগুলি কারণে আমি সেই প্রস্তাবের বিরোধিতা কোরেছিলাম। সে কারণগুলি আজও বর্ত্তমান, সুতরাং আজও প্রস্তাবের বিরুদ্ধেই বোলতে

* An authorised English translation of this Bengali speech will be found in the Appendix.

হচ্ছে। সে কারণগুলির একটী হোচ্ছে এই যে, বাংলাভাষা ভাষী সমস্ত লোকদের বাংলার ভিতর আন্‌বার চেষ্টা কোরে সিংহভূম, মানভূম, ধলভূম এবং সিলেটকে বাংলা দেশের ভিতর সন্নিবেশিত কোরলে বর্ত্তমানে যে মুসলমান মেজরিটি বাংলায় আছে সেটা ক্ষুণ্ণ হবার যথেষ্ট সম্ভাবনা রোয়েছে। সেই জন্য কংগ্রেসের দ্বারা এই রেজোলিউসন উপস্থাপিত ও গৃহীত হলে কংগ্রেসের উপর মুসলমান জনসাধারণের বিদ্বেষ ও অবিশ্বাসের একটা সঙ্গত কারণ জন্মাবে, সে বিষয়ে কোন সন্দেহ নাই। বাংলায় প্রকৃত প্রস্তাবে আজ মোসলেম মেজরিটি, সেই মেজরিটি মাইনরিটিতে পরিণত করবার জন্য কোন প্রকার চেষ্টা করা কিছুতেই সঙ্গত হবে না। বর্ত্তমানে হিন্দু-মুসলমানের ভিতর যে, রকম মনোমালিন্য ও অবিশ্বাসের ভাব রোয়েছে এ অবস্থায় এই ধরণের প্রস্তাব আনাও সমীচীন হবে না। এই কথাটীই আমি বহরমপুর কনফারেন্সের সাব্‌জেক্ট কমিটির মিটিংএ বোলেছিলাম।

আমি বোলতে চাই যে, বাংলার হিন্দু-মুসলমানের মধ্যে যতদিন পর্য্যন্ত প্রকৃত মনের মিল না হবে, যতদিন পর্য্যন্ত তাদের মধ্যে সত্যিকারের একটা বোঝাপড়া ও আপোষ না হবে, একে অন্যের প্রতি যে বিদ্বেষ ও অবিশ্বাসের ভাব পোষণ কোরে আস্‌ছে, সেটা দূরীভূত না হবে, সে পর্য্যন্ত এ ধরণের প্রস্তাব যদি উপস্থিত করা না হয়, সেইটেই আমার মতে বুদ্ধিমানের কাজ হবে। যাঁরা বহরমপুর অধিবেশনে উপস্থিত ছিলেন তাঁদের বোধ হয় মনে আছে যে, এই সমস্ত কারণ দেখিয়ে আমি প্রস্তাবটার বিরোধিতা করার ফলেই সেখানে সংখ্যাগরিষ্ঠ হিন্দু মেম্বারদের দ্বারায়ই সে প্রস্তাবটা পরিত্যক্ত হয়। এবং আমার মনে হোচ্চে—যে কারণে বহরমপুরে সেই প্রস্তাবটা জাতীয়তাবাদীদের দ্বারা পরিত্যক্ত হোয়েছিলো, সেই কারণেই বন্ধুবর কামিনী বাবুর প্রস্তাবটাও তুলে নেওয়া যুক্তিযুক্ত হবে। আমি পূর্ব্বেই বলেছি যে এ প্রস্তাবের বিরুদ্ধাচরণ করার মানে এ নয় যে, এই প্রস্তাবের পিছনে কোন যুক্তি বা নীতি নাই। এ প্রস্তাবের বিরোধিতা করার উদ্দেশ্য হচ্চে আমার এই যে, ইহার দ্বারা মুসলমান সমাজের সমূহ ক্ষতি হবে এবং তদ্দারা কংগ্রেসের উপর একটা অবিশ্বাস এবং ভুল ধারণা জন্মে দেওয়া হবে। কংগ্রেস-কর্ম্মীদের-উচিত মুসলমান জনসাধারণের মনে যে অবিশ্বাসের ভাব আছে সেটা দূর কোরে তাদের মনে বিশ্বাস ফিরিয়ে দেওয়ার চেষ্টা করা। এই ধরণের প্রস্তাব আনার ফলে কংগ্রেস থেকে মুসলমান জনসাধারণ দূরেই সোরে যাবে। সুতরাং যাঁরা বর্ত্তমান সময়ে এ রকমের প্রস্তাব আন্‌বেন তাঁরা যুক্তিসঙ্গত ও বিবেচকের কাজ কোর্‌বেন বোলে আমার মনে হয় না।

আজ হোক বা কাল হোক, দুদিন পরে হিন্দু-মুসলমানদের মধ্যে সখ্য হবেই, যখন নাকি একে অন্যকে বিশ্বাস কোর্‌বে এবং একে অন্যের দ্বারা স্বার্থহানির আশঙ্কা কর্‌বে না—তখন এ প্রস্তাব সর্ব্বসম্মতিক্রমে গৃহীত হবে। কিন্তু আজ যদি এ প্রস্তাব আনা হয় তাহলে হিন্দু-মুসলমানে যে ঝগড়া ও বিরোধ আছে সে ঝগড়াকে আরো তুমুল করা হবে। এই বোলে আমি এই প্রস্তাবটী তুলে নেবার জন্য অনুরোধ কোর্‌ছি।

Dr. RADHA KUMUD MOOKERJI: কে তুলে নেবে? প্রস্তাবক উপস্থিত নাই।

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, the Hon'ble the Chief Minister has already indicated to the House the line of reply which Government are going to make in connection with this resolution. It is the same which they have made on similar occasions in the past, namely, that with regard to those matters for which they are not directly responsible, they are not prepared to express any opinion and they are going to forward the proceedings of the debate to the relevant authorities without expressing any opinion on them. That is the attitude of Government towards this resolution.

There is, Sir, only one thing which I should like to add. I would like to bring it to the notice of the members of the House that the resolution is not so easy to give effect to as it appears on paper. It is not merely bringing the Bengali-speaking areas back to Bengal, but it will mean at the same time a change in the number of seats allotted to the various provinces, increase in the number of members of the Legislatures, alteration in the proportion of seats allotted to the various communities. Besides all these, various other adjustments will have to be made to give effect to this resolution. So, it will be realised that the present time seems to be most inopportune for moving a resolution of this kind. Looking at it from the practical point of view, I would ask, is it possible for the British Government, while the War is on, to undertake a thing of this kind?

Dr. RADHA KUMUD MOOKERJI: They are talking of a Constituent Assembly!

The Hon'ble Khwaja Sir NAZIMUDDIN: Secondly, Sir, looking at it from the Indian point of view, while on the one hand they are advocating and pressing for further reforms and change of the Constitution, to suggest that at the present moment they should take away the existing constitution seems to me to be again a very unreasonable method of dealing with a subject like this. I would, therefore, seriously suggest that a resolution of this kind should not be pressed and put to vote but should be withdrawn, because it is not a practical proposition at the present time. When the present Constitution is revised, that is the time—if anybody is anxious about it and believes in it—to put forward such a resolution. But at the present time, to ask the Secretary of State by an Order-in-Council to amend the thing and to bring in areas that are outside Bengal within Bengal, seems hardly to be a practical proposition, and it will not befit the dignity of the House either to proceed with a resolution which the honourable members themselves feel is not a practical propostion.

Mr. MOAZZEMALI CHAUDHURY: Can any one, other than the mover himself, move for withdrawal of the resolution, Sir?

Mr. PRESIDENT: I was considering the question. It is only the member who gave notice of the resolution who can, with the permission of the House, withdraw his resolution. But unfortunately, the Leader of the Opposition who gave notice of the resolution in the House is absent to-day. There may be considerations of health or other weighty reasons for which he is absent; but it is ordinary courtesy that he should have informed the Chair, when his resolution is going to be considered in the House, of the reason for which he is absent. I regret very much that in our rules of procedure there is nothing to help the House to permit anybody, when the mover himself is absent, to withdraw the resolution.

The question before the House is the resolution of Mr. Kamini Kumar Dutta: that this Council is of opinion that Government of Bengal should move the authorities concerned for obtaining an order in Council under the provisions of section 290 of the Government of India Act, 1935, for altering the boundaries of the Province of Bengal on the basis of linguistic affinities and the reunion of all Bengali-speaking areas in the Province of Bengal.

(The resolution was negatived.)

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, before we take up the next resolution, may I suggest that a note may be made by the Secretary of the Council of the difficulty just pointed out by you, so that when we undertake further amendment of the rules this one difficulty may be tackled?

Mr. PRESIDENT: All right.

Mr. LALIT CHANDRA DAS: Sir, I beg to move that this Council is of opinion that an enquiry committee, with power to take evidence be formed consisting of some members of both Houses of the Provincial Legislature, not exceeding eight in number, representing all parties and presided over by a High Court Judge, to enquire into the causes of strained relations between the Hindus and the Mussalmans in the district of Noakhali and to suggest remedies, with a direction to submit its report by the 31st January, 1940.

Sir, some of the events which I will relate to-day and which have led to strained relations between the Hindus and Muhammadans in the district of Noakhali are as much known to the Hon'ble Home Minister as to others, for I dare say that he received a typed narration of events duly signed and forwarded to him by registered post, the receipt of which purports to bear his signature. That receipt is in my hand. When, Sir, the Civil Disobedience Movement at Noakhali was at its height with Muslim backing, a certain Magistrate, who happened to be a Muslim, undertook the task of crushing it by driving

a wedge between the two communities, the Hindus and Muhammadans of Noakhali. He succeeded in getting round him a number of Muslims who passed for Pirs, Maulanas, Maulavis and Munshis and through their efforts a wholly communal organization by the name of Krishak Samiti was started. That, Sir, was the beginning of all troubles in Noakhali. In meetings and processions, besides the slogan of "কংগ্রেস ধ্বংস হউক্" the slogans of "জমিদার ধ্বংস হউক্" and "মহাজন ধ্বংস হউক্" were uttered and vociferously repeated. The movement once set on foot began to gather momentum and it received its final impetus from the fact of the establishment of what the Hon'ble Mr. Fazlul Huq described as the Muslim Government in Bengal.

The Hon'ble Mr. A. K. FAZLUL HUQ: I described it!

Mr. LALIT CHANDRA DAS: Yes, you described it.

The Hon'ble Mr. A. K. FAZLUL HUQ: Never.

Mr. LALIT CHANDRA DAS: Yes, you did it, and I will be able to point it out.

Mr. PRESIDENT: Order, order. When a statement is being made by the Hon'ble Premier, I think it should be accepted unless of course there is positive evidence to show that it is not accurate.

Mr. LALIT CHANDRA DAS: Sir, let me say here and now that the unfortunate public utterances of the Hon'ble the Chief Minister contributed in no small measure in encouraging the communalists to believe that they can do things with impunity which others might not dare. Sir, let it be remembered that the total population of Noakhali is a little over 17 lakhs of whom 3 lakhs and odd are Hindus and the rest are Muhammadans. Of the Muhammadans, 90 per cent. are tenants and debtors, while almost all the landlards and money-lenders come from the Hindu community. So, at Noakhali Muslims do all sorts of manual labour such as the cultivation of land, reaping of the crops, gathering of woods, plying of the boats, digging of the earth, selling of vegetables and milk.

Sir, the leaders of the so-called Krishak Samities asked the labouring classes to boycott the Hindus who could not do without Muslim Labour. Hence, some Hindus completely surrendered to the peremptory order of the communal leaders by offering some bribe to the coffers of the Samity from time to time. Those Hindus who did not yield were severely dealt with.

The Hon'ble Khwaja Sir NAZIMUDDIN: When?

Mr. LALIT CHANDRA DAS: I will mention presently.

Sir, there are many century-old markets at Noakhali owned by the Hindus. Samity people planned to boycott these bazars. They organised selling of beef in the open space of these markets. Naturally, the owners of the bazars resented and this was made an excuse to boycott the bazars.

Thus, big marts such as Raipur bazar and the markets at Dattapara, Nandigram, Karpara and Lamchar were successfully boycotted on one plea or another and the rival markets on Muslim lands organised. Those who persisted in attending the old bazars were freely assaulted and their articles were forcibly snatched away. The authorities failed to give due protection.

Maulvis adressed numerous meetings and of the speakers, the chief was a certain Muhammadan M.L.A. of Noakhali belonging to the Coalition Party who found the opportunity of his life to spread the virus of communalism among the masses.

The cumulative effect of all these activities was that much bad blood was created between the Hindus and the Mussalmans with results some of which may be enumerated as follows:—

(1) Lands of the Hindus for want of Muslim Labour remained fallow.

(2) Hindu *jotedars* were dispossessed by Muslims *bargadars* who were instructed neither to pay half the *barga* produce nor give up possession of the *barga* lands.

(3) Hay stacks and fencing round betel-nut gardens were set fire to.

(4) Resistance and assault on peons of the Civil Court and men of the Hindu decree-holders was frequent.

(5) Crops of the Hindu middle-class were cut off at night and sometimes even during the day time by the Moslems as part of their communal game and greed.

Here, I would like to read some names and I say that in Garpara alone there were close upon 100 cases of this sort; there are also cases of similar nature in several other villages such as Lamchar, Shampur, etc.

The Hon'ble Khwaja Sir NAZIMUDDIN: When?

Mr. LALIT CHANDRA DAS: I am giving the names. The question has come from the Hon'ble Minister to give him the time when these attacks took place and therefore I shall take up the challenge and tell him when and with names.

(I) Sashi Kumar Choudhury, an inhabitant of Lamchar in Noakhali. His paddy was cut and taken away in Aswin and Kartic, 1346 B.S.

(II) Jagadananda Kaviraj, Sreepur, Noakhali. In Kartic, 1346, his unripe paddy was cut and taken away.

(III) Dr. Chandranath Nath of Haripur.

Mr. W. B. C. LAIDLAW: Will the hon'ble member please tell us what is the corresponding calandar year of 1346?

Mr. LALIT CHANDRA DAS: 1939.

(Here the hon'ble member read a number of names from a book.)

Mr. PRESIDENT: Order, order. You may continue your speech. The names you have given are enough.

Mr. LALIT CHANDRA DAS: I hold in my hand cases of not less than 140 people whose unripe paddy, jute and betel-nut were forcibly snatched away.

The Hon'ble Mr. A. K. FAZLUL HUQ: By the Ministers?

Mr. LALIT CHANDRA DAS: To continue, Sir, the results—

(6) Milch cows and oxen of the Hindus were taken out not unoften at night and killed and beef and skin sold in the Muslim markets.

(7) Many dacoities were committed in the houses of the Hindus with *lathis*, torches and *potkas*.

(8) One money-lender of the weaver class in thana Lakhipur was murdered and burnt in his own house before the arrival of the police on the scene. This approached in barbarity some of the recent murders and barbarities perpetrated by the Muslims in, near and around Sukkur in the Muslim-governed Province of Sind.

(9) Cases of raping of Hindu women were not few and far between. Filthiest language in some instances was used against Hindu ladies. In one case, the wife of a graduate Hindu teacher in Sonaimuri High English School was forcibly dragged out and criminally assaulted.

(10) Krishak Samity leaders, particularly a Moslem M.L.A. of the Coalition Party, interested themselves when cases were started against the offending Moslems. They went to the locality during the police investigation, conducted defence at the courts of Magistrates and Sessions Judges. They

even held out threats. Government officers were not spared. On occasions they warned, not unsuccessfully, the thana officers and the Union Board Presidents not to go against them, with the result that very often Hindus became demoralised and put up with all sorts of tyranny as wrongs without remedy.

(11) A crop of cases of removing gold ornaments of deities and defiling of temples by Moslems occurred and even recently acts of vandalism were perpetrated in connection with the image of Goddess Durga in Sandwip by the Moslems of that locality.

(12) Sometimes, false cases were brought against Hindu police officers, some of whom were warned, some punished and in one case, a Hindu police officer was dismissed from service, he having incurred the displeasure of a leading communalist Moslem who pulled the string from behind—so it is alleged.

A Moslem Subdivisional Officer, in another intance, who dared to raise his voice of protest against inequities of some communalists was transferred telegraphically by orders from Calcutta, believed to have been done at the instance of a certain Moslem M.L.A. of Feni.

In a quite recent case, the transfer of a Moslem Subdivisional Officer telegraphically made was postponed on application made in his favour by the communalists of Noakhali and at the inspiration of his friend who happens to be a Coalition Party Moslem M.L.A. of Noakhali.

In this connection, Sir, I would like to read what has been stated in the "Palli Paygam" of Noakhali on 4th Sraban, 1346 (B.S.). It runs thus:—

* "অনেকেই জিজ্ঞাসা করিতেছেন সদর মহকুমা ম্যাজিষ্ট্রেট মিঃ আহম্মদ মিঞা স্থানান্তরে বদলী হ'য়েছেন বলিয়া যে আদেশ হইয়াছিল তাহার কি হইল? ইহার বদলীর সংবাদ এই স্থানে আসার সঙ্গে সঙ্গে এই স্থানের কতিপয় ব্যক্তির কলিকাতা যাতায়াত ও জনৈক এম, এল, এর কলিকাতা গমনের সহিত এই বদলীর আদেশ স্থগিতের কোন সংস্রব আছে কিনা অনেকেই জিজ্ঞাসা করিতেছে। কোন ব্যক্তি বিশেষ বা কোন আইন সভার সদস্যের চেষ্টায় সত্যই যদি কোন ম্যাজিষ্ট্রেটের বদলীর আদেশ স্থগিত থাকে, তবে সেই ম্যাজিষ্ট্রেট সেই স্থানে নিরপেক্ষভাবে বিচার ও শাসনবিভাগীয় কার্য্য পরিচালন করিতে পারেন কি না তাহা চিন্তা করিয়া দেখিতে আমরা গভর্ণমেণ্টকে অনুরোধ করিতেছি। যদি কাহারও চেষ্টায় সদর মহকুমা ম্যাজিষ্ট্রেট মিঃ আহম্মদ মিঞার বদলীর আদেশ বাতিল হইয়া থাকে কিম্বা স্থগিত থাকে, তবে তিনি ঐ সমস্ত ব্যক্তির হাতের পুতুল হইয়া আছেন, এরূপ

*An authorised English translation of this extract from the Bengali paper will be found in the Appendix.

সন্দেহ করিবার যথেষ্ট কারণ আছে। কোন, ব্যক্তি বিশেষের চেষ্টার বিষয় সত্য হউক কি মিথ্যা হউক, যখন এই সমস্ত কথা লইয়া দেশে কানাঘুষা চলিতেছে, তখন মিঃ আহম্মদ মিঞাকে এই স্থানে রাখা গভর্ণমেণ্টের পক্ষে সমীচীন হইবে বলিয়া আমরা মনে করি না। আমরা এই দিকে বিভাগীয় কমিশনার ও গভর্ণমেণ্টের দৃষ্টি আকর্ষণ করিতেছি।"

Sir, the records of criminal cases in courts and thanas of Noakhali from 1932—1939 will show the number of criminal cases, the number of acquittals or light punishments even in serious cases of resistance to authorities, robbery, rape, rioting, incendiarism, etc.

Some of the Circle Officers, Sub-Deputy Magistrates, Subdivisional Officers, even a certain District Magistrate now in the Secretariat were cajoled to fall in line with the views of the communalists and sometimes even harassed, but when they proved intractable, their transfers were procured, as some Moslem M.L.A.'s boasted.

Sir, at the inspiration of some Moslem M.L.A.'s of Noakhali and their associates, a systematic anti-Hindu propaganda is being carried on without let or hindrance in Noakhali on account of which the Hindu officers grew nervous and Moslem officers generally connived at their activities.

Sir, in October, 1938, a meeting was held at Basurhat within thana Companygunge under the presidency of a Moslem M.L.A. of Noakhali —for the moment I don't mention his name—but if the Hon'ble Home Minister wants, I would like to tell him—in which more than one Maulvi made inflammable speeches and referring to the demolition of the temple of Sarnath urged the audience to re-enact such heroic deeds in respect of Hindu temples. In that meeting, boycott of Hindu shops was also advocated. There was police report of the speeches delivered at this meeting but no action was taken by Government although detailed reports appeared in "Desher Vani" and the "Ananda Bazar Patrika."

Almost similar speeches were delivered at a meeting presided over by the Public Prosecutor of Noakhali at Baburhat on 10th March, 1939. The matter was reported to the Divisional Commissioner and the District Magistrate on 13th March, 1939. Nothing, however, came out of it.

In April, 1939, a certain Moslem M.L.A. (Maulvi Golam Sarwar) delivered a speech at Lamchar under thana Ramganj, which in point of virulence beat all previous records of communal performances. It is reported that besides inciting the Moslem labourers to boycott the Hindus, he even traduced the Hindu goddesses and declared that a certain Magistrate was reduced to the position of a clerk in the Secretariat at his instance. He even incited his hearers to beat a certain Hindu teacher and so boycott the Hindus that they may be reduced to the position of prisoners of war.

Sir, the authorities were duly informed but they felt powerless to move against him with the result that his activities increased.

And so we find that on 13th August, 1939, he delivered another speech in Choumohani bazar not less in point of virulence and hatred of the Hindus than his previous one.

The same gentleman on 3rd September, 1939, delivered his third speech at Sampara bazar in which he emphasised, as the report goes, that if 85 per cent. of the Moslems would pass water, 15 per cent. of the Hindus can be washed off into the Bay of Bengal and asked his hearers to so stiffen the boycott of the Hindus that they may die of starvation and further told them to remember that the Hon'ble Mr. Fazlul Huq was now the ruler of Bengal and so there need be no fear.

Authorities were duly informed. Reports against this M.L.A. were duly made by previous Magistrates and the Divisional Commissioners.

Sir, there are numerous cases where, through the administration of the Debt Settlement Boards dominated by the Muslim communalists of the district, it can be shown that the Hindu capital has been wiped out of the district.

Sir, there are written statements of over 100 Hindus whose properties were forcibly taken away by the Muslims and where no police action was taken although reported. And cases are not few where personal violence was committed by the Muslims on the Hindus and no action was taken.

Sir, the effect of communalism is seen all round in Noakhali. About 90 per cent. of the Executive Officers in Noakhali are Moslems who have failed to give due protection to the Hindus. Even in educational institutions, all the eleven Sub-Inspectors of Schools are Moslems. Primary Schools have been removed from the Hindu quarters to the Muslim quarters where maktab standards are being enforced. All-round attempts are being made to bring about a revolution in thought and culture to the utter detriment of Hindu interests and by outraging their feelings and sentiments. Now, a great wall separates the Hindus and the Mussalmans of Noakhali.

Sir, I shall now read here before I make my final submission a statement which was made by Mr. Lutfi Ali, Barrister-at-Law, Calcutta. This gentleman is an inhabitant of the district of Noakhali He wrote an article in the "Hindusthan Standard" on December 11, 1939. The whole of it will not be relevant, but only a portion of it will be relevant for the purpose of the resolution which I have moved to-day. In November last he was passing through the villages Lamchar, Karpara, Jagatpur and Sripur of Noakhali. He said: "I went to study the effect of the last flood and to distribute some clothes to the Moslem and Hindu victims of the area. I felt ashamed when many

Hindus and a few Moslems saw me, and complained about their unripe paddy being cut off on a massive and vindictive scale by people neither having any money-lending or talukdari business. Cases of trespass, dispossession, assault, tampering with the honour of ladies were reported to me. In this connection a certain M.L.A.'s name was freely discussed as the real instigator from behind the screen and sometimes even openly. I was told that Lamchar and Karpara bazars which are century-old markets of the district have been totally boycotted by Muslims from last year just like the well-known boycotted markets of Raipura, Dattapara and Nandigram. Everybody told me that he is responsile for injecting the virus of communalism in this area. It was amusing to hear reports from responsible persons of his rabid speeches and the charming effects of his 'doa' with mustard seeds on the Governor's wife and the simple-minded masses believe him as he claims descent from a Pir family. People also complained to me about the terrible effect of the administration of Arbitration Board and Union Board detrimental to the interests of the minority community. They openly told me that he is under the 'protecting wings' of the Chief Minister." Sir, I do not find the Chief Minister here. I see he is there. I am sorry. (Laughter.) Well, Sir, that is what Mr. Lutfi Ali said in the "Hindusthan Standard" of December 11, 1939.

Sir, I ask for no Royal Commission. My purpose is to get at the truth and not to avoid it and so unlike Messrs. Jinnah and Huq I do not ask for any set of gentlemen to come over from England to enquire into the state of Noakhali. My proposition is simple enough. I want a committee. I want it to be composed of men who are the representatives of the people themselves, who can best do the task than the members themselves—some elected members of both the Houses representing all parties. The committee, as it would be a business committee, need not be unwieldy. In order that it may be like Caesar's wife above suspicion, I suggest that it should be presided over by a High Court Judge trained to examine and sift evidence to perfection and to get at the truth. The committee must inspire confidence and its task need not be long. Sir, sitting at the third week of January it will be able to finish its task early and submit report by the end of January. In fact, Government cannot refuse such a committee.

The Hon'ble Mr. Fazlul Huq made a public challenge and that challenge was taken up by Dr. Syamaprasad Mookerji and Mr. B. C. Chatterji whereupon the Chief Minister has undertaken to set up a committee. That committee must not be a white-washing committee. It must be an independent body and so it must be of the sort I have suggested in my resolution. Government should, therefore, have no hesitation in accepting the resolution which I have the honour to commend to this House for acceptance. (Cries of "Hear, hear" from the Congress Benches.)

Mr. PRESIDENT: Resolution moved: that this Council is of opinion that an enquiry committee, with power to take evidence be formed consisting of some members of both Houses of the Provincial Legislature, not exceeding eight in number, representing all parties and presided over by a High Court Judge, to enquire into the causes of strained relations between the Hindus and the Mussalmans in the district of Noakhali and to suggest remedies, with a direction to submit its report by the 31st January, 1940.

The Hon'ble Mr. A. K. FAZLUL HUQ: Sir, as I was listening to the list of grievances read out to this House by my friend, Mr. Lalit Chandra Das, I was reminded of a story which I learnt when I was at school. A certain student who unfortunately was a very bad student had to appear for a *viva voce* examination and was asked by the examiner to mention the names of the Moghul Emperors beginning with Babar and ending with Bahadur Shah. The boy knew nothing of history but he was not to be nonplussed. Instead of the names of the Moghul Emperors, he gave out the names of his father, his grandfather and everybody. (Laughter.)

My friend, Mr. Lalit Chandra Das had to say something and he read out to the House the names of Hindus whose paddy has been cut by Moslems. Now, Sir, this is no new thing in Bengal. All over the province, the paddy of Hindus had been and is being cut by Muslims and so long as the Hindus have got paddy and the Muslim cultivators require paddy, these occurrences are going to take place. I would ask my friend, Mr. Lalit Chandra Das, to recall the days of his professional activities and to tell the House in how many cases he had defended Muslims who had cut and taken away the paddy of Hindus. Not only paddy-cutting, but offences of that kind are being read out and brought forward as a charge against the Government. Sir, there is nothing to investigate in a matter like this. These things happen; people who have got grievances go to the police and lodge complaints, otherwise the profession of lawyers would come to a standstill. These paddy-cutters must be there, otherwise lawyers cannot exist. But to impute communalism to incidents like these is not fair. A Muslim cuts paddy as much of Hindus as of Muslims. So long as the opportunity is given to him, he makes no discrimination.

Sir, I am not going to say anything as regards the merits of the resolution. My friends said that I stated somewhere that we have established Muslim rule in Bengal. I deny most emphatically ever having said that we are Muslim rulers or that we have established Muslim rule. I would ask my friend who says he has in possession proof that I said so, to produce that proof in this House before this Council is prorogued because otherwise his statement and my challenge remain opposing each other. I would like him to produce the evidence —oral or documentary—as to my having said so. I can tell the House

that this is one of those vile calumnies which find expression in the Congress newspapers day in and day out, in order to discredit me and the Bengal Government. I must tell my friend—

Mr. LALIT CHANDRA DAS: May I interrupt the Hon'ble Chief Minister for a minute? Is it not a fact that at the time of the last July session of the Assembly, he wrote a letter to a certain Muslim gentleman to rally round him to save the Muslim Government in Bengal? I put it to him: whether these were not his exact words—"rally round me to save the Muslim Government in Bengal"?

The Hon'ble Mr. A. K. FAZLUL HUQ: I ask my friend to produce that letter if it is published. He has got a very bad memory or he has purposely misquoted the letter. I ask him to produce that letter. I shall come every day and I will wait for the production of that letter. I could never have written such a letter because it is bad English and it is in bad taste. (Laughter.)

Now, Sir, I was going to point out that the cause of Indian unity will not be furthered by these charges and counter-charges. If really the Muslim Ministers and their Hindu colleagues are such a bad lot that they take a malignant pleasure in setting coalition members to speak so many bad things about the Hindus and the Hindu community, I should think and I must write down that Provincial Autonomy in India is a dismal failure. There are no Europeans involved here. It is Indians *versus* Indians. What is it that the Hindus of Noakhali have done to us that we should encourage anyone, be he a member of the Coalition Party or any party, to go and say evil things of the Hindus of Noakhali? It does not help the Government in any way. As a matter of fact, so far as the present Ministers are concerned, we thank Providence that we stand, through the mercy of God, firmly fixed on the majority votes of the members of this Legislature. So long as we command a majority, we need not adopt underhand means and questionable methods for the purpose of exciting ill-feelings against the Hindus of Bengal. It does not help us in the least. The votes we have got are ours and through the mercy of Providence will be ours till the end of the life of this Assembly. Therefore, Sir, if my friends would simply pause and reflect, they will at once realise that this is a game of those persons who have got their own axe to grind in order to render our Ministry unpopular in the vain hope that by that means they may win over certain members from the Coalition Party to the Opposition. But the fact remains that the more we are abused, the more solid becomes our position in the country, because people feel that the Opposition have been adopting unfair methods.

I may tell my friends that the kind of speeches which had been delivered or rather which are said to have been delivered by certain members of the Coalition Party simply pale into insignificance in

point of virulence and other objectionable features as compared with the rabid writings in the Congress Press, such as, the "Amrita Bazar Patrika", the "Hindusthan Standard", the "Ananda Bazar Patrika", the "Dainik Basumati" and other papers. These papers openly throw jibes, sarcasms, abuses, personal attacks, inuendoes and insinuations against me and that without any reason whatsoever. The speeches referred to are nothing when compared to the speeches that are also made against me. It is reported that in the Hindu Mahasabha one member said—"why finish the Ministry, finish the Ministers". Does it lead anywhere? Will it bring the millennium to India? Point out to me where I have gone wrong. You have given a list. We have scrutinised that list and even one single instance does not bear scrutiny. A certain Mahatma gave a list of 62 cases in which Hindu women had been abducted and outraged in Maldah. The Inspector-General of Police with two Deputy Inspector-Generals of Police and Superintendent of Police at once investigated case by case and it was found that in 80 per cent. of these cases the abducted women and abductors belonged to the same community. So, there could be no question of any communalism with regard to those incidents. It was only in six cases that the adbucted women were Hindus and the abductors were Moslems. Three of them were still under police investigaton. One had been declared false and two were awaiting trial. There may be one or two more cases, I don't remember. Now, that was the position. We published these facts in the columns of the "Bengal Weekly". We also got them published through the Associated Press, and still only the other day in the Hindu Mahasaba meeting the same charge was repeated, knowing fully well that there was absolutely no truth in any of these statements. What are we to do? The charge was brought, we investigated and we found it to be false and some months after, the charge is repeated and then the "Amrita Bazar Patrika" says that Fr. Shyamaprasad Mookerjee has made good his case.

If merely making a charge means making good a case, all courts should be abolished. As soon as a charge is framed—there should then be no need of a Judge or a Public Prosecutor or defence Counsel—the prisoner should be sent to jail straight off. Sir, they forget that a mere charge is no proof and so far as these charges are concerned, we have published facts regarding many of them. Many others are under investigation and we are going to publish a full statement of the results of our enquiries and investigations into the allegations that have been made. Let me assure this House and through this House the great world outside that it is no pleasure to us, who are Indians, as well as our accusers, to play the role of oppressors and the oppressed, because after all, we have got this great boon from the British Government of carrying on by ourselves the administration of affairs in this country. The Europeans are standing by, looking at us

and watching this great experiment. It is a most dangerous experiment that they have undertaken but they have willingly undertaken this experiment in the fond hope that Indians would rise equal to the occasion, that they would know how to forget their mutual feelings of recriminations against one another and that they would show to the world that greater confidence could be reposed in their sense of responsibility by the manner in which they have used the opportunities that were given to them. Instead of combining to carry on the administration smoothly and furthering the cause of the country, the Moslems are bitter against the Congress Governments and the Congress people are bitter against those Governments where the Premiers happen to be Moslems; and all taken together, there is nothing but attack and counter-attack. If this continues, I submit—and I submit for the consideration of the Congress High Command and of my friends who is one of the shining lights of the Congress Party in Bengal—that in these circumstances the Secretary of State and His Excellency the Viceroy stand justified when they say that it is impossible to think of any further political advance unless these communal quarrels are settled. And who is going to settle? Only Indians themselves. It cannot be settled by any outside interference and if you really believe all this rubbish against Muslims oppressing Hindus in Noakhali, anything that appears in those wretched rags of journalism which call themselves newspapers and bring forth wreckless charges seriously against the established Government, well, let me assure you that those who are responsible for the future Government of India will know how to take note of the realities of things. At the present moment, we are doing our very best to make it impossible for the Secretary of State or for the British Government to pretend in future that they do not know the realities of the situation in India. We are emphasising our differences and that for nothing. Sir, I would leave my friend and those of his way of thinking to their conscience to consider whether small incidents of paddy-cutting and house-breaking should be exploited——

Mr. LALIT CHANDRA DAS: These are not all. I have cited many other things.

The Hon'ble Mr. A. K. FAZLUL RUQ: There have been lakhs of cases, not one or two, in Bengal in which paddy has been cut, houses have been broken, people have been assaulted, people have been abused and speeches more irresponsible than those referred to have been delivered. But one thing is certain and let me tell it before I sit down, namely, that in spite of all the accusations that have been made against this Government, Bengal stands to-day as the one province where there has not been a communal clash since the introduction of Provincial

Autonomy. Let me give this House the assurance that we stand here determined to maintain Law and Order. If we find that the Moslem masses are really going out of control, we will step in at once.

Mr. AMULYADHONE ROY: What about Jessore?

The Hon'ble Mr. A. K. FAZLUL HUQ: What happened there? Nowhere has there been a communal clash. I am told that in Jessore one Congress volunteer killed another Congress volunteer. Sir, I won't take up the time of the House any more. I say this by way of conclusion. Take all the provinces one by one, find out from the record of ten years backward from 1937 how many riots took place before the introduction of Provincial Autonomy and find out the cases of communal discord and communal disputes that have taken place and find out how many zemindars have been killed in Bihar on account of agrarian disputes and see what has happened in Bengal. Every tree is known by its fruit and the best justification of our Government lies not in my bragging and boasting that we have established Moslem Government or anything but the best justification of the Bengal Government lies in the fact that we have been able, through the mercy of Providence, to discharge our duty by the people consistent with our obligations to all the communities that live in this province.

Khan Bahadur REZZAQUL HAIDER CHOWDHURY: Mr. President, Sir, I rise to oppose this resolution moved by Mr. Das. Mr. Das wants to make out something out of nothing. He made a series of allegations. I can assure this House, in spite of all these allegations, that there are cordial relations existing between Hindus and Muhammadans at Noakhali (Hear, hear,) and some of the allegations, I can tell my friend, are not correct. I would go further and say that some of them are, to my knowledge, false.

As regards the incidents mentioned by Mr. Das, I find that he made out that at Sonaimuri the wife of the Head Master had been molested by Muhammadans. Now, this was not a recent case. It was a case that occurred nearly six years back and the offenders were punished by the Court of Law. I can challenge my friend to contradict me so far as this point is concerned. I have listened to his speech carefully. I do not think that he has made out a case for enquiry into what I would characterise as imaginary troubles in Noakhali. From his speech, if I have understood him correctly, I find that it is an allegation against some individual or individuals and I am not here to support misdeeds of any person or persons, however highly-placed they may be. If any individual has done anything against law or tries to create ill-feeling between Hindus and Muhammadans, the arm of the law is long enough to reach that individual and we have got the assurance from our Premier to-day that Government are also very eager to

suppress all such things. From my personal knowledge, I can assure this House that there is no such ill-feeling between Hindus and Muhammadans at Noakhali. We, people of Noakhali, do not like any interference from any outside body. Hindus and Muhammadans of Noakhali know very well how to make up their differences. We do not want any enquiry by any outsider. Sir, I do not object to have a committee to devise ways and means to establish cordial relations between Hindus and Muhammadans in this province. There is no justification to single out the Noakhali district for enquiry by a committee into the cause of strained relations between Hindus and Muhammadans. All that I can say is that in the way some political agitators are exciting communal feeling among the masses, there might be trouble all over Bengal.

My friend is not an exception in giving wrong data. Recently Dr. Shyamaprasad Mookerji in a statement gave a catalogue of grievances of Hindus at Noakhali. Dr. Mookerji not beeing in touch with the actual state of affairs, possibly he had been misled by some irresponsible persons. One of the alleged grievances is that in selecting sites for free primary schools, almost all the existing schools in the houses of Hindus have been recommended for removal to the houses of Muhammadans. Being at the helm of affairs of the District School Committee, I can assure honourable members of this House that the allegation is baseless. No such report of the Site Selection Committee has been submitted. If I am permitted, I can say that there is no such contemplation in the minds of the members of the Site Selection Committee.

Now coming to the allegations of my friend, even assuming the truth of his version, I would request Mr. Das to consider whether the step suggested by him would enhance the cause for which he has brought forward this resolution. Even allowing for a very natural desire on the part of my friend to play the part of a hero before the Hindu electorate in that constituency on the eve of re-election, I would respectfully point out that the game he is unconsciously playing would impair the cordial relations which now exist between the two great communities in our district. I wish him a safe return to the Council, but in the name of peace and goodwill and the best interest of the district, I would request my hon'ble friend to withdraw his resolution.

Mr. KADER BAKSH: Sir, the speech of Mr. Das reminds me of the saying that the thief's mother has got the loudest voice.

Any fair-minded gentleman to whatever political party he may belong, to whatever persuasion he may belong—whether a Hindu or a European or a Muhammadan—will, I think, have the moral courage to say that the Muhammadans had been subjected to all sorts of oppression for a long time,—political, social and economic,—in the province of Bengal.

Mr. SHRISH CHANDRA CHAKRAVERTI: By whom?

Mr. KADER BAKSH: By the vested interests, by the zemindar class, and by the intelligentsia of the province, and as to who constitute these classes, I need not tell you.

Now, Sir, as regards the charges which have been brought against the Mussalmans of Noakhali by my honourable friend, even if they are true, I may also cite instances only of recent occurrence in the district of Dinajpur and I take the responsibility to prove them from police report and other reports. When I had occassion on the 29th December, 1939, to preside over a meeting at Fakirganj, about 56 miles north of Dinajpur, I sent information to Maulvi Hafizuddin Chowdhury, M.L.A., asking him to attend the meeting and he also went there. It was attended by about 2,000 to 3,000 people who were largely Muhammadans and also some Scheduled Caste Hindus. A novel propaganda was being carried on by people whose names I may mention here. One of them was Gurudas Talukdar and another was Mantu *alias* Satyen. Gurudas was a Congress volunteer and a jail bird. Mantu also was a Congress volunteer and son of a Muktear of Thakurgaon. These people were inciting the Scheduled Caste Hindus against Muslims and all Scheduled Caste people who attended that meeting admitted as having been instigated and incited by these people. Now, they told them not to sell curd, oil, *chira* and rice to Muhammadans. It took me nine hours to cool down the atmosphere and there was apprehension of a serious riot between the Scheduled Caste people and Muhammadans there. Had we not been there, there would have possibly been a riot there.

Now, there is one Muhammadan *hat* named Fakirganj *hat* and all these volunteers numbering about 500 went there and and took away all the cattle which consisted of cows and goats. These volunteers belonged to the Kishan Movement which is being led by Mantu, Satyen, Gurudas and another gentleman, of whom I have not got definite information but who happens to be the son of a friend of mine. These volunteers took away all the cattle from the *hat* and realised one anna as sale duty per head of cattle.

Again, the police report will show that at the Kali Fair, which is owned by a zemindar of Burdwan, about 1,500 heads of cattle were sold in the course of a single day on the other side of the river. Thus, the poor zemindar was deprived of Rs. 5,000 from a fair during the last Kali Pujah festival. I challenge Government to prove that my statements are false. I can assure you that this is a true state of things which I have spoken from personal knowledge and reliable information.

Then again, these volunteers have been advising the Scheduled Castes *adhiars to* take away all the paddy and not to gather them in

the *khamars*. In some cases, when the crops were being cut, 400 volunteers took their stand and advised the *adhiars* to cut and take away paddy and then divide the rest between them and the *jotedar*. This is the state of things prevailing there and this is the way in which Muhammadans there are being oppressed by members of the Hindu community under the cover of the Kisan Movement. Now, there is one object, there is one motive and there is one reason behind it. They having failed to administer other provinces of the country are now trying to discredit the Government of Bengal. This is being done designedly by the Congress under the cover of the Kisan Movement. We, Hindus and Muslims, had been living peacefully so long. It is only the irresponsible statement of my friend, Lalit Chandra Das, the irresponsible publications in newspapers and the most irresponsible statement of Dr. Shyamaprasad Mookerjee asking the Hindu young men of the terrorist days—

Mr. PRESIDENT: Order, order. Dr. Shyamaprasad Mookerjee is not before the House.

Mr. KADER BAKSH: It is the statements made inside the Council Chamber and writings in newspapers which are responsible for widening the gulf between the Hindus and Muslims. Muhammadans, as you know, are the least communally-minded. They cannot be communalists because of the very fact that they are Mussalmans. সমস্ত হিন্দু মুসলমান ভাই ভাই। Let them live amicably and peacefully. In Dinajpur, we were living peacefully; in Noakhali, they were living peacefully and amicably. Whenever there was any ceremony in a Muhammadan house, the Hindus are the first to be invited. Similarly whenever there was any function in a Hindu family, the Muhammadans were invited first. Now, there are some people—they are landless beggars, and there are others, people who have been deprived of services. It is these people who are carrying on propaganda and are embittering the relations between the Hindus and Muhammadans.

Now, as our Premier said just now, the ambition on the part of Indians for any further constitutional reform would be a distant cry and a distant vision if the Hindus and Muslims do not combine and live amicably and peacefully.

Now, Sir, most of the charges which have been levelled against the Muhammadans of Noakhali are imaginary and exaggerated.

Mr. SRISH CHANDRA CHAKRAVERTI: How do you know that.

Mr. KADER BAKSH: I know because I consulted the Chairman of the District Board of Noakhali and many other gentlemen of Noakhali. If any Muhammadan does any bad act, certainly we ought to be ashamed of it. Similarly, if any Hindu does anything bad, every Hindu ought to be ashamed of it.

Again, charges have been levelled against the members of the Coalition Party unreasonably. I can tell this much that if anything has been done in Bengal for the improvement of Bengal, it has been done for all the classes—for Hindus, for Muhammadans and for the Scheduled Caste people. It is the members of the Coalition Party who have done the greatest good to the greatest number. If they have not been able to do anything for the pleader class, or the barrister class or the advocate class or the service-holders, that is a different matter. Now, we have to see whether the Coalition Party has done the greatest possible good to the greatest number in the course of these two years and a half. If they have got the Bengal Tenancy Act passed, they have done it for the people of Bengal.

Mr. PRESIDENT: Will the honourable member come to the subject of the resolution? The record of the Coalition Party is not being discussed here. (Laughter.)

Mr. KADER BAKSH: Thank you, Sir. As I just now said, agitation like this and false allegations like these which are being ventilated through the newspapers and through the Council Chamber will not serve the purpose for which this resolution has been moved. If we come closer together and discuss things amongst ourselves and if we try to see eye to eye, then only this question may be solved. If we have a Committee of Enquiry, the Hindus will try to bring in false evidence and try to create evidence in their favour and similarly, the Muslims will also try to create evidence in their favour. This will never bring us anywhere near our goal. It will simply embitter the feelings between the Hindus and Muslims. I believe, there are some people both inside and outside the Council who foster feelings of bitterness amongst Hindus and Muslims to serve their own ends. For these reasons, I think that the passing of a resolution like this will not do good either to Hindus or Muslims or to the province as a whole. Therefore, I oppose the resolution.

Dr. RADHA KUMUD MOOKERJI: Sir, I was rather reluctant to intervene in this debate, because I have no personal or direct knowledge of the facts on the basis of which my friend, Mr. Das, has brought forward this resolution.

At the outset, I must congratulate the Hon'ble the Chief Minister on his pronouncement, his re-assuring declaration that he and the Ministers of this Government regard themselves in the administration

of this province as the guardians of all communities and peoples and not necessarily of the particular community to which they happen to belong. I only hope that the Chief Minister will be firm in this declaration and will continue in this strain and in this note throughout his subsequent pronouncements in the province and also outside.

At the same time, Sir, I am afraid I cannot congratulate the Hon'ble Chief Minister on the particular view he has taken of this resolution of which the correct scope he has not properly understood, if I may say so with due deference to his position. What the resolution asks for is a very simple matter. It asks for an enquiry, and is it really seriously meant by members of this House that the mover of this resolution has not been able to prove a *prima facie* case and to show that there has not been enough material which calls for a judicial and impartial enquiry? After the catalogue of grievances and wrongdoings that he has placed before the Council—and I hope a man in his responsible position has not been fabricating lies or ventilating falsehoods—if we credit him with this sense of responsibility as we ought to, I think that although some individual grievances may after a judicial enquiry be found to be baseless, I cannot but think that all the members of this House will agree in considering that enough material has been placed before this House on the basis of which an enquiry is called for. If on the basis of the facts that have been cited by him—facts which have been reported publicly in the newspapers,—if on the basis of these facts, you do not think that there is any case for an enquiry, I do not know under what conceivable circumstances the Legislative Council can ever come to any decision with regard to the necessity of a public enquiry into public grievances. I, therefore, think and I wish to suggest to the Chief Minister that even now if he assures us that administratively he will go into the whole subject of the grievances of the Noakhali public,—Noakhali, of late, has been filling a large place in the public attention of the province on account of the misdeeds which have been going on there for months and years,—if the Government is generous enough in assuring the House that it would duly set up even a departmental committee of enquiry to go into this question, well, on the basis of this assurance probably the mover of the resolution might have thought differently.

But when it is stated solemnly by all the members on the opposite side that no case for enquiry has been made out and that the facts stated are all baseless and do not constitute any material for enquiry, I say, I really feel surprised at the extreme attitude that has been taken on this subject. Under this assumption, I do not think that the Opposition can ever prove any case which, in the Government's opinion, will call for enquiry, and this will lead automatically to the other position that the Government will always consider themselves above board and above all foibles and mistakes and the public at large or

an impotent Opposition will never have the ability or the capacity to have their wishes respected in the matter of even ordinary enquiries into public grievances. I, therefore, still think that the Government in the spirit of statesmanship to which the Prime Minister has given expression, in that spirit of goodwill and service to the whole country as a whole, will set up a committee of enquiry and instead of burking an enquiry will face an enquiry and prove the hollowness of the allegations that have been made from the side of the Opposition and the Opposition will only be too glad——

Mr. PRESIDENT: Order, order. The House stands adjourned till 2-15 p.m. on Monday, the 8th January.

Adjournment.

The Council then adjourned till 2-15 p.m. on Monday, the 8th January, 1940.

Members absent.

The following members were absent from the meeting held on the 5th January, 1940:—

(1) Rai Bahadur Manmatha Nath Bose.
(2) Mr. Hamidul Huq Chowdhury.
(3) Mr. Humayun Reza Chowdhury.
(4) Mr. Narendra Chandra Datta.
(5) Mr. Kamini Kumar Dutta.
(6) Khan Bahadur Alhaj Khwaja Muhammad Esmail.
(7) Mr. Kanai Lal Goswami.
(8) Mr. Mohamed Hossain.
(9) Alhaj Khan Bahadur Shaikh Muhammad Jan.
(10) Khan Bahadur M. Abdul Karim.
(11) Mr. H. G. G. Mackay.
(12) Mr. Naresh Nath Mookerji.
(13) Mr. J. B. Ross.
(14) Mr. W. F. Scott-Kerr.
(15) Khan Bahadur Ataur Rahman.

B. G. Press—1939-40—12271A—750.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Monday, the 8th January, 1940, at 2-15 p.m. being the twentieth day of the Third Session, pursuant to section 62(2) (*a*) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Transfer of the Subdivisional Officer of Noakhali.

124. Mr. LALIT CHANDRA DAS: (*a*) Will the Hon'ble Minister in charge of the Home Department please state whether it is a fact that the Subdivisional Officer of Noakhali, Mr. Ahmad Meah, was gazetted to be transferred from Noakhali?

(*b*) Has he left the town up till now?

(*c*) Is it a fact that Maulvi Golam Sarwar, M.L.A., and Mr. Gofran, Public Prosecutor of Noakhali and some other persons approached the Hon'ble Home Minister to get his transfer cancelled or postponed?

(*d*) Is the Government aware that the present communal tension amongst the Hindus and Moslems in the district of Noakhali is greatly due to the speeches of Maulvi Golam Sarwar, M.L.A.?

(*e*) Is the Government aware that Maulvi Golam Sarwar has great influence over the Subdivisional Officer, Mr. Ahmad Meah?

(*f*) Will Government please explain why the transfer order of the Subdivisional Officer has not been given effect to up till now?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): (*a*) and (*c*) Yes.

(*b*) and (*e*) No.

(*d*) I am informed that communal relations are at present normal.

(*f*) For administrative convenience.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state who else except Mr. Gofran and Moulvi Golam Sarwar saw him about this matter?

The Hon'ble Khwaja Sir NAZIMUDDIN: Two other M.L.A.'s from Noakhali.

Mr. LALIT CHANDRA DAS: May I know their names?

The Hon'ble Khwaja Sir NAZIMUDDIN: Mr. Abdul Majid, I believe and I forget the name of the other M.L.A. from Noakhali.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state what administrative convenience prevented the transfer of this Subdivisional Officer of Noakhali, Mr. Ahmed Meah, which was gazetted?

The Hon'ble Khwaja Sir NAZIMUDDIN: The other M.L.A. is Khan Sahib Aminullah, Mr. Fazlur Rahman who was selected for the post applied for short leave. A suitable permanent successor will be available at the end of January. The transfer of Mr. Ahmad Meah has therefore been held in abeyance.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state what were the reasons why after interviewing some members of his party he cancelled the transfer order afterwards?

The Hon'ble Khwaja Sir NAZIMUDDIN: I have already replied to that point.

Mr. LALIT CHANDRA DAS: If Mr. Gofran, Maulvi Golam Sarwar and two other M.L.A's. had not interviewed the Hon'ble Minister, would his transfer have been cancelled?

The Hon'ble Khwaja Sir NAZIMUDDIN: That is a hypothetical question, Sir.

Mr. LALIT CHANDRA DAS: Is it the usual practice with the Hon'ble Minister to consult members of the Muslim League and to receive their representatives before Muslim administrative officers are transferred?

The Hon'ble Khwaja Sir NAZIMUDDIN: No, nor was it done in this case.

Mr. LALIT CHANDRA DAS: Did the Hon'ble Minister see the two representatives of the Muslim League in his house or in the Writers' Buildings in his capacity as Minister of the Government of Bengal or as leader of the Muslim League?

The Hon'ble Khwaja Sir NAZIMUDDIN: I was then acting as a Minister interviewing the honourable M.L.A.'s and M.L.C.'s.

Mr. LALIT CHANDRA DAS: Is it a fact that this Subdivisional Officer has been condemned by the Divisional Commissioner as unfit to hold charge of any subdivision?

The Hon'ble Khwaja Sir NAZIMUDDIN; That is not correct.

Mr. LALIT CHANDRA DAS: How far am I correct? Was any remark made by the Divisional Commissioner about his fitness?

The Hon'ble Khwaja Sir NAZIMUDDIN: Communications by Divisional Commissioners and District Magistrates are confidential.

Mr. LALIT CHANDRA DAS: I do not ask for the disclosing of any confidential information. What I want to know is what impression did the Hon'ble Minister form from those communications about the fitness of this particular Subdivisional Officer?

The Hon'ble Khwaja Sir NAZIMUDDIN: In my opinion, the officer is still fit to hold charge of a subdivision.

Mr. LALIT CHANDRA DAS: Was he ever before in charge of a subdivision? If so, for what period and in what places?

The Hon'ble Khwaja Sir NAZIMUDDIN: He was at Khulna and Dinajpur. At Khulna, he was for more than two years and at Dinajpur, he was in charge for a certain period of time and he may have been in charge before he was posted as Subdivisional Officer at Khulna.

Mr. LALIT CHANDRA DAS: What is the information on which the Hon'ble Minister bases his reply that there is no communal disunion in the district of Noakhali?

The Hon'ble Khwaja Sir NAZIMUDDIN: Reports from Commissioner and Collector.

Mr. LALIT CHANDRA DAS: Is the Hon'ble Minister aware that a resolution was passed by the All-India Hindu Mahasabha in this city of Calcutta during the Christmas week referring to the oppression of Hindus by Muslims?

The Hon'ble Khwaja Sir NAZIMUDDIN: This was based on entirely wrong and baseless premises. There was no justification for such a resolution.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state if he did not receive various representations from different public bodies and persons on the subject of the oppression of Hindus by Muslims in the district of Noakhali?

The Hon'ble Khwaja Sir NAZIMUDDIN: I have not received representations from various bodies but the representation which I did receive, for that I have asked for particulars and sent two reminders. I have not received any representation from the Hindu Mahasabha yet.

Mr. LALIT CHANDRA DAS: Has the transfer of this particular Subdivisional Officer been cancelled?

The Hon'ble Khwaja Sir NAZIMUDDIN: I have already stated that it has not been cancelled.

Mr. LALIT CHANDRA DAS: Is it a fact that he was transferred from the position of the Subdivisional Officer to the position of the Second Officer at Barisal?

The Hon'ble Khwaja Sir NAZIMUDDIN: Not that of a Second Officer but that of a Senior Deputy Magistrate.

Mr. LALIT CHANDRA DAS: Was that a degradation or promotion?

The Hon'ble Khwaja Sir NAZIMUDDIN: It is not considered degradation. There are many Subdivisional Officers who are transferred as Senior Deputy Magistrates. It does not mean degradation because even a man who has been in charge of a subdivision and who is a first class competent officer is often transferred as a Senior Deputy Magistrate.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state when his transfer will actually take place?

The Hon'ble Khwaja Sir NAZIMUDDIN: As soon as a suitable man is available to go there.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state the probable estimate of time when it is likely that a suitable man will be available?

The Hon'ble Sir NAZIMUDDIN: Within a month and a half.

Mr. LALIT CHANDRA DAS: Is it a fact that the present District Magistrate as well as his immediate predecessor were Muslims?

The Hon'ble Khwaja Sir NAZIMUDDIN: Yes, but before that for two years, there was a non-Muslim there and before that continually for a long period, there were either Hindu or European officers in the Noakhali district. The other Muslim officer was there only for two or three months and the present man has only been there for 9 months. Previously for the last 5 years, District Magistrates there were either Hindus or Europeans.

Mr. LALIT CHANDRA DAS: With reference to answer (*d*), will the Hon'ble Minister be pleased to state for how many years the communal relations were abnormal?

The Hon'ble Khwaja Sir NAZIMUDDIN: It was only for a very short period that there was slight tension there. It has never been of a serious nature. If there was any difficulty it was on the ground of differences between the classes, namely, zemindars and *mahajans versus* the Krishak Samities.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister give us an estimate of the time instead of saying "for a very short period"?

The Hon'ble Khwaja Sir NAZIMUDDIN: Three to six months.

Mr. LALIT CHANDRA DAS: In which year?

The Hon'ble Khwaja Sir NAZIMUDDIN: In 1939.

Dr. RADHA KUMUD MOOKERJI: With reference to answer (*a*), may I know who first made the proposal of the transfer of this Subdivisional Officer of Noakhali?

The Hon'ble Khwaja Sir NAZIMUDDIN: In the normal course it came from the Divisional Commissioner.

Dr. RADHA KUMUD MOOKERJI: Does the expression "normal course" mean that he served out his term at Noakhali or the normal period of such an officer has been cut short?

The Hon'ble Khwaja Sir NAZIMUDDIN: He has not yet had his full term of two years there.

Dr. RADHA KUMUD MOOKERJI: Then why was it necessary that a proposal for his transfer should at all be made to Government?

The Hon'ble Khwaja Sir NAZIMUDDIN: The Commissioner made the suggestion.

Dr. RADHA KUMUD MOOKERJI: When the Commissioner's proposal was accepted by Government and was gazetted by them, why was the Gazette notification not given effect to?

The Hon'ble Khwaja Sir NAZIMUDDIN: I have already stated the reason.

Dr. RADHA KUMUD MOOKERJI: Does the Gazette notification still stand or is it cancelled?

The Hon'ble Khwaja Sir NAZIMUDDIN: I have already stated that before and I repeat it again that so far as the transfer is concerned, it stands; the transfer has not been cancelled.

Supply of mosquito curtains to political prisoners.

125. Mr. AMULYADHONE ROY: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state whether mosquito curtains are supplied to political prisoners belonging to Division III, including the *satyagrahis*?

(*b*) Is the Government aware that the latrine conditions in jails are absolutely bad?

(*c*) Is it a fact that no screen purdah is maintained in jail latrines?

(*d*) Has the Government made any arrangements to supply smoke to the political prisoners concerned?

(*e*) Does the Government intend to redress the grievances referred to above?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) There are no Division III terrorist prisoners and *satyagrahis* in jails in Bengal.

(*b*) No.

(*c*) In some jails some latrines are without screen purdahs but steps are being taken to provide them.

(*d*) The Division I prisoners already enjoy this privilege under the Jail Code rule 1058. The question of extending the privilege to Division II prisoners including terrorists is under consideration.

(*e*) Does not arise.

Medical examinations of motor licence-holders in mufassal towns.

126. Mr. AMULYADHONE ROY: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state whether the class of people who apply for professional licence in mufassil to drive motor cars, buses and lorries are generally poor?

(*b*) Is the Government aware that they are liable to be medically examined by the local Sub-Assistant Surgeons before the licence is granted?

(*c*) Is it a fact that on account of this monopoly, the Sub-Assistant Surgeons charge higher fees than what is ordinarily charged by medical graduates practising at the headquarters of the mufassil districts?

(*d*) Is it not a fact that under the existing rules registered medical practitioners are entitled to grant medical certificates in such cases?

(*e*) Does the Government intend to take any steps in this direction?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) Possibly they are.

(*b*) Yes.

(*c*) I have no information on the point.

(*d*) No.

(*e*) No; because the rules under the Indian Motor Vehicles Act, 1939, will come into force from the 1st April, 1940, and will provide for medical certificates being signed by any registered medical practitioner.

Allegations against the Subdivisional Officer of Narail and the Police Superintendent of Jessore.

127. Mr. SHRISH CHANDRA CHAKRABARTI: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state if it is a fact that the Subdivisional Officer of the Narail subdivision and the Superintendent of Police of Jessore in the month of May, 1939, have issued two confidential circulars separately to the Thana Officers of the Narail subdivision advising them (Thana Officers) to take as small number of cases against the Mussalmans as possible and file as small number of charge-sheets against them as possible?

(*b*) Is it a fact that thefts, murders, burglaries, house-breaking, riotings and abductions have been increasing day by day?

(*c*) If replies to clauses to (*a*) and (*b*) be in the affirmative, will the Hon'ble Minister be pleased to state if any steps have been taken by the Government in the matter? If so, what are they? If not, why not?

(*d*) Will the Hon'ble Minister be pleased to enlighten the House on the following facts:—

(*i*) what is the number of each of cases of dacoity, murder, rioting, theft, burglary, house-breaking, crop-damaging, abduction, committed in the Narail subdivision in Jessore in each of the years of 1937, 1938 and 1939;

(*ii*) how many cases have been reported to the thanas;

(*iii*) how many charge-sheets have been brought against the alleged persons; and

(*iv*) how many alleged persons have been found guilty of the charges and given punishments by the Court?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) No.

(*b*) The hon'ble member is referred to replies to (*d*) (*i*) and (*ii*).

(*c*) Special patrols have been introduced, bad-livelihood cases instituted, co-operation meetings held and village defence parties organised.

(*d*) (*i*) and (*ii*) I have no information as to the number of dacoities, etc., actually committed but the number of cases as reported to the thanas is given below:—

	Dacoity.	Murder.	Rioting.	Theft.	Burglary.	House-breaking.	Crop-damaging.	Abduction.
1937 ..	1	3	12	52	171	12	Not reported to thana as the offence is non-cognisable.	6
1938 ..	1	5	24	107	278	16		8
1939 up to November.	3	14	28	84	215	13		5

(*iii*) 1937—51.
1938—72.
1939 up to November—92.

(*iv*) 1937—93.
1938—100.
1939 up to November—136.

Loss and damage caused to the villagers of Chittagong due to flood.

128. Mr. NUR AHMED: (*a*) Will the Hon'ble Minister in charge of the Revenue Department be pleased to state if he has made any enquiry regarding the extent and amount of loss and damage caused to the villagers of Chittagong by recent flood?

(*b*) What specific measures has the Government of Bengal taken to rehabilitate these unfortunate victims of floods in their pre-flood condition?

(*c*) How much money has been granted by way of agricultural loan, or by way of gratuitous relief to the flood-stricken people of Chittagong?

(*d*) Has Government received any representation to the Hon'ble Revenue Minister and the Hon'ble Chief Minister suggesting some urgent measures of relief to be given to the poor villagers of the flood-affected areas? If so, will the Hon'ble Minister be pleased to state what were these suggestions and if any action was taken in the light of those suggestions? If so, what were they? If not, why not?

MINISTER in charge of the REVENUE DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) Yes.

(*b*) and (*c*) Gratuitous relief to the extent of Rs. 11,300 has been distributed in the affected area besides a sum of Rs. 1,995 received from charitable bodies. A sum of Rs. 1,20,250 has been distributed as agricultural loans and an amount of Rs. 2,000 out of a total allotment of Rs. 50,000 by Government has already been sanctioned as Land Improvement loan.

Cultivation of potatoes and pulse has been attempted in the southern portion of the district by way of demonstration so that the *ryots* may not have to depend on only one crop in the year in future.

(*d*) Yes. The suggestions made were—

(1) Free supply of *aman* seedlings to the villagers affected by flood.

(2) Embankments damaged by flood should be repaired.

(3) Rent and Court of Wards dues should be remitted.

(4) Realisation of Education Cess should be stopped in those areas where rent is remitted.

(5) No interest on arrear rent should be realised and no penalty should be imposed for default in due payment of revenue.

(6) The time for payment of the last September *kist* should be extended.

(7) Sufficient money should be sanctioned for distribution as agricultural loans.

(8) Bamboos and other materials from the Reserved Forest should be supplied free of cost to the villagers for constructing their huts.

Suggestion (1).—It was too late to think of raising and supplying *aman* seedlings. An attempt was therefore made to introduce potatoes, turnips and some kinds of pulse in the affected areas.

Suggestion (2).—A sum of Rs. 16,313 has been spent for the rainy season repairs to Government embankments and the local officers propose to spend a further sum of Rs. 30,000 for the winter season repairs.

A sum of Rs. 2,000 out of a total allotment of Rs. 50,000 has already been sanctioned for distribution as Land Improvement loans for repairs of private embankments.

Suggestions (3) and (5).—As the damage caused was not serious it is not proposed to issue any general order. Each case will be considered by the local officers on its merit.

Suggestion (4).—This is under enquiry.

Suggestion (6).—As the area affected was chiefly *khas mahal* land the proposal to extend the time to pay the September *kist* did not arise.

Suggestion (7).—A sum of Rs. 1,20,250 has already been distributed as agricultural loans and further amounts will be sanctioned if and when necessary.

Suggestion (8).—This is under enquiry.

The Malibari Debt Settlement Board in the Gaibandha subdivision.

129. Rai Bahadur KESHAB CHANDRA BANERJEE: (*a*) Will the Hon'ble Minister in charge of the Co-operative Credit and Rural Indebtedness Department be pleased to state whether it is a fact that case No. 2 of 1937 in the Malibari Debt Settlement Board in the Gaibandha subdivision of the district of Rangpur is still pending?

(*b*) If the answer to part (*a*) is in the affirmative, will the Hon'ble Minister be pleased to state as to what action he proposes to take against the Board for disobeying the Government circular making it incumbent upon every Debt Settlement Board to dispose of within three months all applications regarding arrears of rent?

(*c*) What steps, if any, does the Hon'ble Minister propose to take in order to expedite the proceedings pending before the Debt Settlement Boards?

(*d*) Is it a fact that the Debt Settlement Boards in the Gaibandha subdivision of the said district generally grant 8 to 10 years' instalments in respect of petitions regarding arrears of rent?

(*e*) If the answer to part (*d*) is in the affirmative, does the Hon'ble Minister propose to enquire into the matter and take steps so that not more than 3 or 4 years' instalments are allowed in cases of arrears of rent?

(*f*) Is it a fact that in case No. 32 of 1937 in the Boali Debt Settlement Board in the Gaibandha subdivision, Rangpur, 10 years' instalments for arrears of rent were allowed?

(*g*) Is it also a fact that in cases Nos. 25 of 1937 and 27 of 1937 in the said Boali Debt Settlement Board, 8 years' instalments of arrears of rent were allowed?

(*h*) Is it a fact that in case No. 30 of 1937 of the same Debt Settlement Board 9 years' instalments for arrears of rent have been allowed, and that in cases Nos. 57 of 1937, 112 of 1938, 23 of 1938 of the same Board, the instalments for arrears of rent have been granted for 9 years, 7 years and 8 years respectively?

MINISTER in charge of the CO-OPERATIVE CREDIT and RURAL INDEBTEDNESS DEPARTMENT (the Hon'ble Mr. Mukunda Behary Mullick): (*a*) No.

(*b*) Does not arise.

(*c*) Every effort is made to facilitate a rapid disposal of cases. Too often delay is caused by creditors' failure to appear before the Boards in proper time or to pay their share of the fees.

(*d*) More than 4 years' instalments are only granted when the arrears of rent of unusually poor debtors are exceptionally high and when the landlord agrees.

(*e*) Does not arise.

(*f*) to (*h*) Case No. 25 of 1937—No. In all other cases—yes, with the consent of the landlord [for the reasons given under (*d*) above].

Rai Bahadur KESHAB CHANDRA BANERJEE: Will the Hon'ble Minister be pleased to state whether enquiries were made to ascertain the truth or otherwise of the statements contained in the question after it was received by the Hon'ble Minister?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I do not quite follow what the hon'ble member means, but I may say that the question was referred to the Collector of the district and only on the ascertainment of facts the answer has been given.

Rai Bahadur KESHAB CHANDRA BANERJEE: Is it a fact that in cases where the landlords did not agree, instalments were granted as stated in the question?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Under the Act and the rules it is not possible for any Board to pass an order of that nature unless the parties agree.

Raja BHUPENDRA NARAYAN SINHA Bahadur of Nashipur: With reference to answers (*f*) to (*h*), will the Hon'ble Minister be pleased to state if the consent of the landlord has been taken in writing or verbally?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I must ask for notice. It is very difficult to say how the consent was obtained. But orders were made to which consent was obtained.

Raja BHUPENDRA NARAYAN SINHA Bahadur of Nashipur: Will the Hon'ble Minister be pleased to make an enquiry to find out whether the consent was taken verbally or in writing?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: If the hon'ble member desires, I can make an enquiry and see whether it was obtained verbally or in writing.

Rai Bahadur KESHAB CHANDRA BANERJEE: Is it normal for the landlords to agree to instalments being granted for more than four years in respect of arrears of rent?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I may explain the situation. In these cases, the rents were due for more than seven years. There was already a decree and there were further arrears, and therefore it was done in this case. Normally, it was not possible for rents in arrears to be spread in instalments for more than four years.

Rai Bahadur KESHAB CHANDRA BANERJEE: Is it a fact that written consent was never given by the landlords in such cases?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I do not think so.

Rai Bahadur KESHAB CHANDRA BANERJEE: Is it not a fact that in cases where the creditors are not able to appear, instalments are granted according to the sweet will and pleasure of the members of the Board?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: It is stated that these ordinary Debt Settlement Boards cannot make a final order without the consent of the party.

Rai KESHAB CHANDRA BANERJEE Bahadur: Will the Hon'ble Minister be pleased to issue instructions that in future consent must be obtained in writing?

The Hon'ble Mr. MUKUNDA BEHARY MUULICK: The question is under consideration.

Time-limit for Notices of Amendments relating to Government Bills.

The Bengal Agricultural Debtors Bill.

Mr. PRESIDENT: Order, order. The Hon'ble Mr. Mullick gave notice on the 21st of December, 1939, that the Bengal Agricultural Debtors Bill would be taken into consideration on the 15th of January. Notice of amendments about circulation or reference to the Select Committee must be given by the 11th January, 1940.

The Bengal Public Demands Recovery (Amendment) Bill, 1939.

The Hon'ble Sir Bijoy Prasad Singh Roy moved that he would take up for consideration the Bengal Public Demands Recovery (Amendment) Bill, 1939, as passed by the Bengal Legislative Assembly, on the 9th of January. But now it has been settled that this will also be taken up on the 15th January. So, any notice of amendments for circulation or for reference to the Select Committee must be given by the 11th January.

The Eastern Frontier Rifles Bengal Battalion (Amendment) Bill, 1939.

The Hon'ble Khwaja Sir NAZIMUDDIN: I beg to give notice that I propose to move that the Eastern Frontier Rifles Bengal Battalion (Amendment) Bill, 1939, as passed by the Bengal Legislative Assembly, be taken into consideration and passed as settled in the Council. I ask for your permission under Rule 77(*1*) of the Bengal Council Procedure Rules to bring this motion on the 9th January, 1940, and also ask for permission for the consideration and passing of the Bill on the 11th January, 1940.

Mr. PRESIDENT: Would it not be better to take it on the 15th January along with other Bills?

The Hon'ble Khwaja Sir NAZIMUDDIN: Yes, Sir.

Mr. PRESIDENT: Any notice of amendment for circulation or reference to the Select Committee must be given by the 11th.

The Bengal Money-lenders Bill, 1939.

The House will now resume further considertion of the Bengal Money-lenders Bill. To-day has been fixed for the consideration of the point of order raised by Mr. Indu Bhusan Sarkar. I desired the Hon'ble Minister to reply to some questions I raised on that day. The

first one was about the implication of his own views as embodied in the Statement of Objects and Reasons appended to the Bill. The Hon'ble Minister stated therein that the Provincial Legislature had no jurisdiction over cheques, bills of exchange, promissory notes and such other instruments.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: That is a point of law and not a point of fact. I may reply to the point of law.

Mr. PRESIDENT: Order, order. I am only asking him about the statement in the Statement of Objects and Reasons to which I drew his attention. Do you still hold that opinion or have you changed your views?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: I have since changed my mind, Sir. As regards the statement of facts, facts, if true, cannot be changed. That is one aspect. But in the case of opinion——

Mr. PRESIDENT: Order, order. I do not doubt your right of changing your views. I only wanted to ascertain from you the fact as to whether you stick to the Statement of Objects and Reasons.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: No, Sir. I do not stick to it now.

Mr. PRESIDENT: All right. Another thing to which you have referred in that Statement of Objects and Reasons was the Money-lenders Act of 1933. Now, according to sub-section (3) of clause 10 of the Act of 1933, it is clear that the powers conferred by the section on the Provincial Government was, in relation to banking business carried on by corporations, to be exercised by the Central Government. The Hon'ble Minister certainly knows that Orders in Council are promulgated after consultation with Parliamentary Counsel who are specialists.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: So far as these orders are concerned, they are not like orders of Court. Whatever order is passed by that House is not final. It may be amended only if circumstances so require. Orders passed by the King are subject to amendments or alterations only if circumstances so require.

Mr. PRESIDENT: I have failed yet to appreciate the Hon'ble Minister's point. Will you explain it further?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: It is this. So far as money-lending is concerned, it is absolutely a provincial subject.

Mr. PRESIDENT: I was speaking about the Order in Council.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Money-lending is a provincial subject. The Government of India have no power or the Central Legislature has no power to legislate on money-lending. But so far as this special Order in Council is concerned, that refers to the rule-making power and nothing else. As regards the rule-making power under the old Act, that will vest with the Government of India. If the old Act is to be followed, then all the troubles which I have taken for the last three years will be of no avail at all. We are practically repealing the old Act. We are giving a new law to the country. If the Government of India want now to make rules under the old Act, let them do so. I have no objection to that. But I say that I am not going to be guided by the old Act and I am giving a new law for the country and if this new law is within the competence of the Legislature, I have every right——

Mr. PRESIDENT: I am not questioning that. In your Statement of Objects and Reasons you have referred to this. You felt your difficulty at that time because after consultation with the Parliamentary Counsel, sub-section (*3*) to section 10 of the Act of 1933 had to be adopted by the Government of India (Adaptation of Indian Laws) Order, 1937. Thus, you find that after consultation with the highest legal authorities they thought it necessary to add the third clause. I only wanted to draw your attention to that fact. Don't you feel any embarrassment because of that adaptation?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: I appreciate the point very much. I am advised that the Adaptation Order is not final; it can be altered. All these were done before the present Ministry came into existence. Really speaking, it was not done with the consent of the present Ministry. It was done in our absence before the new Constitution began to function. So, we are finding difficulties in accepting many Orders-in-Council. We will have to amend them and ask the Secretary of State to amend them as and when required. That is the real position.

Mr. PRESIDENT: Am I correct in saying that your position is that it was not necessary?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Yes, Sir.

Rai Sahib INDU BHUSAN SARKER: Sir,—

Mr. PRESIDENT: Let me first understand the view-point of the Hon'ble Minister.

Mr. RANAJIT PAL CHOUDHURY: It is very difficult to understand the Hon'ble Minister.

Mr. PRESIDENT: If you listen to him attentively, you will be able to understand.

Rai Sahib INDU BHUSAN SARKER: Sir, shall I be permitted to explain my point of order hereafter?

Mr. PRESIDENT: Yes, every honourable member will get a chance of speaking.

Khan Bahadur NAZIRUDDIN AHMAD: It is an important matter.

Mr. PRESIDENT: Yes, it is a very intricate matter and very important too, because it concerns the jurisdiction of the Provincial Legislature, and I think I have made it absolutely clear in one of my old rulings that so long as I am not convinced that it is *ultra vires* of the jurisdiction of the Provincial Legislature I shall not hold that the point of order is valid. I appeal to members of the House to hear carefully the argument that is now going to be advanced by the Hon'ble Minister.

Dr. RADHA KUMUD MOOKERJI: Sir, may we know what the Hon'ble Minister has just explained? We could not follow him exactly.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: I have never had any occasion to know that a speech can be repeated. A speech once delivered is final. But my friends want to hear a repetition of things which I have never done in my life. The position is this. Two points have been raised by the Hon'ble President just now. One is the statement as found in the Statement of Objects and Reasons, and the other is an Order-in-Council taking away certain power *wrongly* from the Provincial Government. So, these are the two things that have engaged the attention of the Hon'ble President. On the first point, I had to admit——

Dr. RADHA KUMUD MOOKERJI: On a minor point of order, Sir. Can the Hon'ble Minister suggest that something was wrongly done by an Order-in-Council?

Mr. PRESIDENT: Certainly.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Then on the first point, as regards my statement appearing in the Statement of Objects and Reasons, it was an opinion on a point of law. Subsequent enlightenment on the subject considerably changed my opinion, and, thereafter, introduction of something in the Assembly during my absence has compelled me to take up this attitude. So, the exclusion, really speaking, of some of the banks from the operation of this Bill is responsible for the present position, namely, that if you exclude some, you include others. But if there was no exclusion of some and inclusion of others, this question would not have arisen at all. The law would have been passed and it would have taken its course. If any Court could prove or any Court of Justice had held that transactions in banking or even money-lending transactions by banks would not come within the purview of this Act, the matter would have been finished then and there. But now, when the Lower House has accepted certain amendments and has put them in this Bill, I am bound to say that there must have been some reason for their acceptance in the Lower House.

Mr. SRISH CHANDRA CHAKRAVERTI: On a point of order, Sir. Is the Hon'ble Minister entitled to say that we are always bound by what is done by the Lower House?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: I did not mean that. You wanted me to explain the conduct of the Lower House and I am putting the case of the Lower House before you.

Mr. PRESIDENT: This House has nothing to do with what happened in the Lower House. You must take it that it was done there in the best of their judgment.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: All right, Sir. Let me put all the points together. That will be the best thing. For the first time in my life, I am going to read out from a written speech. I hope my friends will pardon me. After all, it contains a lot of materials which must not be taken very lightly.

My friend, Rai Sahib Indu Bhusan Sarker, has raised a point of order. He says that the present Bill offends against the provisions of the Government of India Act, 1935, specially in the matter of item No. 27 of list No. 2 and items Nos. 28 and 38 of list No. 1. My friend wants to say that as banking is a federal subject, any encroachment upon that subject even in its function regarding money-lending is wrong in principle. We have very carefully considered this question and we are of opinion that the Provincial Legislature has every right

to legislate on the regulation and control of money-lending in Bengal whether the lender is a person or is a bank or a corporation. Money-lending is a provincial subject. My friend probably cannot raise any dispute to legislate on it as money-lending and money-lenders are within the legitimate and exclusive power of this Legislature. The Central Legislature cannot encroach upon money-lending either in the whole of India or in any province whatsoever. This means that the Central Legislature has got no power to control or regulate any money-lending business in the provinces——

Mr. PRESIDENT: Order, order. That has never been disputed. That is not the question. In the exclusive list, the Provincial Legislature has been given every right to legislate on money-lenders and money-lending. That is not the point. The point is that in the guise of legislation on a subject which is exclusively provincial, you cannot encroach upon a Central subject.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: That is the difficulty with a written speech, Sir. (Laughter.) If the Provincial Legislature does not legislate on the regulation and control of money-lending, there is no other power on earth, not even the Central Government which can control and regulate this business. If we are to be guided by the advice of our friends, we will have to surrender the governmental and legislative functions of the province absolutely without any such power being exercised by the Central Legislature and the Central Government. In short, if we let loose the unscrupulous money-lenders whether as person or as corporation to do mischief in the land without any let or hindrance, Government will come to a standstill, society will go to rack and ruin and individuals will be at the mercy of some hungry wolves. I shudder to think of that condition of the country when the people will remain helpless and unscrupulous money-lenders——

Mr. PRESIDENT: I am extremely sorry to interrupt the Hon'ble Minister. But these points are not questioned. We agree that the Provincial Legislature has every right to legislate on money-lenders and money-lending. These points on merit might be suitably discussed when the motion for passing the Bill comes before the House. Now, we are concerned only with the point of order, namely, whether there is restriction on the powers of the Provincial Legislature, as Mr. Sarker has contended, and whether we are encroaching on the exclusive jurisdiction of the Federal Legislature.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I am perfectly within my right to say that I have absolute power to legislate on money-lending in the province, and to control the money-lender, whether he is an individual or a bank or a corporation. My

friend has not construed the list in a right and proper manner. He probably thinks that item No. 27 of list II and items Nos. 28 and 38 are hostile to each other. He wants to insinuate that the framer of the Government of India Act, 1935, have made a mistake and have very clumsily put the two subjects in the list. If my friend would care to read carefully the two lists and specially the wording of item No. 38 of list No. I, he will find that item No. 38 reads thus: "Banking, that is to say, conduct of banking business by corporations." The meaning of this is perfectly clear. Although the first word "banking" has been given there, the words "that is to say, the conduct of banking business" in the same breath shows that it is not the entire function of banking that has been allowed to the Central Legislature but only the conduct of banking business by Corporation has been allowed to it. Sir, you will not call me imprudent if I mention before you the condition of the country which has led people to shudder at the conduct of banking business by corporation.

Joint-stock banks, membering over 600, came into existence in Bengal during the last 30 years which received deposits from the average work-a-day people of the province. I am constrained to say from my experience that these so-called patriots working in our country misled the people and used the peoples' savings for their own needs without any respect for integrity and honesty of business, with the result that there has been a failure of most of these banks. They never cared to keep sufficient money in stock to save the banks when there might be need for the depositors to withdraw their money. During the last six years from 1929 to 1934, all the so-called banks closed their doors and the depositors are not getting more than an anna per rupee——

Mr. PRESIDENT: May I ask a question? Do you suggest that because there were so many failures in conducting banking business, the Central Legislature were within their rights to pass a law restricting the rate of interest?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: They cannot do that. That will not come within the meaning of the term "conduct" of banking business.

Mr. PRESIDENT: What is the meaning of the expression "conduct"?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: "Conduct" refers obviously to management. When you say that a business is not properly conducted, you thereby mean that it is not managed properly. "Conduct" means nothing else.

Mr. PRESIDENT: "Conduct" means "carrying on".

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Yes, and nothing else. The Government of India cannot under any pretext fix the rate of interest for money-lending transactions whether made between an individual and an individual, an individual and a bank and a bank and a bank. They have got no such right. That right is only reserved for the Provincial Legislature.

Mr. PRESIDENT: Is it your contention that that would not be the carrying on of banking business?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: No. To continue my statement. Sir, during the last six years from 1929 to 1934, all the so-called banks of my friends closed their doors and the depositors are not getting more than one anna a rupee from the liquidators. This terrible catastrophe has actually brought ruin and disaster to thousands of families in Bengal who had their deposits in these banks. This misconduct of the so-called banking corporations is responsible for the Parliament giving the Central Government power to regulate and control the conduct of banking business by corporations and also for yesterday's announcement of the Government of India that the Government of India has been advised by the Reserve Bank to restrict the definition of banking only to such corporations as will carry on their own business in a business-like way, will keep at least 30 per cent. of the depositors' money in Government securities and will keep a large amount as security in the Reserve Bank of India. This is the conduct of banking business. Money-lending is not actually the function of a bank.

Mr. PRESIDENT: What are the principal functions of a bank?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: The function of a bank is to receive deposits and advance money——

Mr. PRESIDENT: May I refer you to some definitions? In Stroud's Judicial Dictionary, it is defined as follows:—

> "expression (banking) is wide enough to embrace every transaction coming within the legitimate business of a banker".

Again, in Wharton's Law Lexicon, "Bank" has been defined as follows:—

> "*Bank.*—Commercially it is a place where money is deposited for the purpose of being let out to interest, returned by exchange, disposed of to profit or to be drawn out again as the owner shall call for it."

I may also refer you to what is stated on page 167 of the English and Empire Digest:—

"*Business of Banking.—Essential characteristics.*—The essential characteristics of the business of banking are the collection of money by receiving deposits upon loan, repayable when and as expressly or impliedly agreed upon and the utilisation of the money so collected by lending it again in such sums as required."

The Hon'ble Mr. H. S. SUHRAWARDY: These make no difference between "conduct" and "banking business."

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: The Order in Council specifically mentions the conduct of banking.

Mr. PRESIDENT: The first word in item No. 38 is banking which has been further explained by saying "that is to say, the conduct of banking business by corporations". If we are certain about the connotation of the word "banking", you need not trouble about the explanatory portion. The term "banking" has been defined in the famous Privy Council Appeal case—Law Reports of 1894—as follows:—

"It also comprehends 'banking' an expression which is wide enough to embrace every transaction coming within the legitimate business of a banker. The appellant's Counsel hardly ventured to dispute that the lending of money on the security of goods or of documents representing the property of goods was a proper banking transaction. They hardly disputed the point that lending of money was the proper function of the banking business."

There is another item—Item 33 of the Exclusive Federal List—which reads as follows:—

"Corporations, that is to say, the incorporation, regulation and winding up of trading corporations, including banking, insurance and financial corporations, ..."

I have not yet formed any opinion on this matter but I hope you will consider all these points.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: I shall clear up that point. This misconduct of the so-called banking business by corporations and yesterday's announcement of the Government of India that the Government of India has been advised by the Reserve Bank to restrict the definition of banking only to such corporations as will carry on their own business in a business-like way, keep at

least 30 per cent. of the depositors' money in Government securities and also a large amount as security in the Reserve Bank of India. This is the conduct of banking business. Money-lending is not actually the function of a bank. It is a subsidiary function, not a principal one.

Mr. PRESIDENT: That is a point to be decided, namely, whether money-lending is in practice only a mere subsidiary or a principal function of a bank. Under the Indian Companies Act, a banking company means a company which carries on as its principal business the accepting of deposits of money on current account or otherwise, subject to withdrawal by cheque, draft or order, notwithstanding that it engages in addition in any one or more of the following forms of business, namely:—

(1) the borrowing, raising or taking up of money, etc., etc.,

(2) acting as agents for Government or local authorities, etc., etc.,

(3) contracting for public and private loans, etc., etc.,

(4) the promoting, effecting, insuring etc., etc., and so on and so forth.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: I have understood your point.

(Cries of "we cannot follow.")

Mr. PRESIDENT: Order, order. This is a very difficult matter and you must make allowance for the Hon'ble Minister to explain in his own way.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: You have raised the same point in a different way. Here you have taken the word "banking" independently as if that is the only meaning.

Mr. PRESIDENT: No, no.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: On the contrary, the conduct of banking business means that banking business includes money-lending as well.

Mr. PRESIDENT: I appreciate your point. As regards the word "conduct", it refers to the manner of carrying on. That is my tentative opinion. I should like to hear and be convinced that money-lending merely comes as a subsidiary function of a Bank. Then, I would entirely agree that it comes in only indirectly and that therefore it would not ban the local Legislature.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: I see your point, Sir. The Hon'ble President wants to be sure that money-lending is a subsidiary business of banking.

Mr. PRESIDENT: Or a main or principal function.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Really speaking, banks have got 30, 40 or 50 functions and money-lending is only one of them.

I may refer you to the latest publication which contains the Indian Companies Act which has been passed quite recently by the Central Legislature. It summarises systematically all the different rulings of the different parts of the country. All these are codified there. So, here one will see that a banking company means a company which carries on as its principal business the accepting of deposits in current account or otherwise subject to withdrawal by cheque or draft or order. Besides that, it engages in addition in any one or more of the following forms of business. So, in actual banking, the principal business of the bank is to accept deposit, and allow the deposit to be withdrawn by cheque. That is the only thing that constitutes a bank.

Mr. PRESIDENT: The only thing?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Only thing, Sir. That is the only primary thing that constitutes a bank. Even if you accept deposit but you do not allow that deposit to be withdrawn by cheque, it is not a bank. There are some banks or rather loan offices which have a provision that no deposit can be withdrawn by cheque.

Mr. RANAJIT PAL CHAUDHURY: These are fixed deposits.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: You do not know. That is the whole trouble. The position is this. The pith or the principal business which constitutes a bank is not the deposit but allowing the deposit to be withdrawn by cheque. That is the principal business of a bank though it may have a lot of other businesses. The wording is sufficiently clear. Notwithstanding that, it engages in addition in any one or more of the following forms of business. Their number is 17. Suppose out of this 17, a bank chooses only two, still it is a bank; or three, still it is a bank; if it does not let out any money on money-lending business, still it is a bank. So, money-lending is one of the 17 businesses through which a bank can actually use its own money.

Mr. PRESIDENT: The Hon'ble Minister has submitted his point of view. Now, Mr. Indu Bhusan Sarkar, what have you got to say on this? The Hon'ble Minister has explained that the principal function of a bank is to accept deposits and to allow withdrawal by means of cheques. That, he maintains, is the principal or main function of a bank, and the others are merely subsidiary. Therefore, money-lending is not really within the pith and substance of banking and thus it cannot come within the exclusive jurisdiction of the Federal Legislature.

Rai Sahib INDU BHUSAN SARKAR: Sir, I am not a lawyer.

Mr. PRESIDENT: It is not a question of being a lawyer. You have raised a point and you ought to realise the implications of the Hon'ble Minister's arguments. (Laughter.)

Rai Sahib INDU BHUSAN SARKAR: Sir, the Hon'ble Minister has said that money-lending is one of the seventeen forms of banking business and it is not the principal business. That is the point that he has made. I think my honourable friend Dr. Mookerji will explain matters.

Mr. PRESIDENT: Of course, any one can speak.

Dr. RADHA KUMUD MOOKERJI: Sir, I do not know whether I shall be allowed at this stage to speak on the whole point of order that has been raised.

Mr. PRESIDENT: No. The only point raised in substance was this. If money-lending be one of the principal functions of a bank, then the local legislature will be banned; but if it is a subsidiary matter which incidentally comes in, then the local Legislature having full rights to legislate on money-lenders and money-lending will be within their rights to bring in the present Bill incorporating the provision taken exception to. That is the point. The Hon'ble Minister not only gave his opiinon but he quoted the authority of the Indian Companies Act which has been passed very recently and he says that it has so many functions and yet the principal factor which constitutes a bank is the acceptance of deposit of money and its withdrawal by means of cheques, drafts, etc.

Dr. RADHA KUMUD MOOKERJI: As directed by you, Sir, I will confine myself only to the particular point that has just now been raised. Sir, I want to make two points clear before I intervene in this debate.

Mr. PRESIDENT: It is not a debate; it is only a point of order.

Dr. RADHA KUMUD MOOKERJI: Sir, I want it to be understood that if in my argument I say something, that should not be regarded as the view of any party and also that I should not be understood to be an obstructionist.

Mr. PRESIDENT: No, you are only helping the Chair to come to a decision.

Dr. RADHA KUMUD MOOKERJI: I think, Sir, that the Hon'ble Minister in charge has completely misconceived the scope of what banking really means, and on this subject I refuse to be guided by any such subordinate authorities as he has quoted. I will just explain the point in this way. Banking starts with other peoples' money. I hope this will be agreed to by the Hon'ble Minister that banks take other peoples' money by way of deposits no doubt but the deposit is only a part of the whole transaction.

Mr. PRESIDENT: Am I correct in saying that it starts with share-holders' money?

Dr. RADHA KUMUD MOOKERJI: Of course, Sir, we are thinking of banks as corporation and I thought, Sir, that it was understood that because it was a corporation, it starts with share capital and also with deposits. Now, when it receives money in the form of a deposit, it may do so in two ways, namely, either keeping the deposit in current account or in a certain other form, namely, in the shape of a fixed deposit. You know, Sir, there are many banks which allow interest even on current account deposits; and as regards fixed deposits, the rate of interest is higher. Therefore, the very fundamental conception of banking is first of all to receive deposit from the public and thereby help the public in earning an income which the public cannot themselves earn by their own efforts. Secondly, when the bank receives a deposit from the public, *ipso facto* it means that the bank must be prepared to earn the interest which it has to pay out to the depositor, and therefore the only way in which a bank can earn the interest on its deposit will be by investing the money received by way of deposits and this investment means that the bank is bound to lend. Money-lending, therefore, is the life and the very breath of a bank; and it is so fundamental that I am surprised to find that the Hon'ble Minister of Justice has been misled by some second-hand authority of the Companies Act (laughter) to prove that lending is only like so many other items of a bank's business. What is vital to the life of a bank and, in fact, the very air that a bank breathes is that it receives money in the shape of deposits and pays out interest on the deposit and thirdly, it earns the interest that it has to pay out to the public by money-lending. Therefore, the lending of money is an integral part

of the transaction of which the first part is only receipt of deposit, and therefore I say—well I am speaking as an economist and I hope my title to be an economist will not be disputed—that I do not care for a second-hand authority. I wish to be guided by the clear light of reasoning, and this light is so clear that it cannot at all be obscured by the very very inferior authorities that the Hon'ble Minister of Justice has quoted. I am sorry I have not before me other books which give another version of the story, but take it from me, and if you apply your reasoning to the subject you will find that a bank receives deposits and pays interest on the deposit and that for that very reason it is bound to earn the interest. I hope the Hon'ble Minister will agree with me that the bank is bound to earn money for the public in order that it may help the public by paying out interest fixed on the deposit, whether current or fixed. There are many banks which do not allow interest on current deposits, but that is merely an extraneous feature of a bank. There are banks which pay interest, however low it may be, even on current accounts. So, I say, Sir, that the very fundamental conception of banking is connected with money-lending.

Mr. E. C. ORMOND: Mr. President, Sir, there are two observations I would take this opportunity of making in the interruption which has intervened in this discussion, restricting myself solely to the last question which you, Sir, put to this House as to whether there were any observations on this remark of the Hon'ble Minister that because the Indian Companies Act in section 277 (*f*) referred to a bank being a company of which the principal business consisted of something: therefore, other business also mentioned as legitimate business under this Act is not be regarded as banking.

Sir, there is one point which possibly appears to have been overlooked. The Indian Companies Act relates to companies, and section 277 (*f*) relates to the obligations or the conditions which a company has to fulfil in order to be classed as a bank within that section. Now, Sir, if one cares to look at section 4 of the Indian Companies Act, it is apparent that other people who are not companies at all are at liberty to carry on banking business. You will kindly see how the section reads:—No company or association or partnership consisting of more than 10 persons shall be formed for the purpose of carrying on the business of banking unless certain things are fulfilled. Read that as carrying the clear force that a partnership of certain persons such as the old partnership companies of England, namely, Coutts And Co., Barclays, Cox & Company and the old partnership companies of 100 years ago carrying on banking business were nonetheless people doing banking business, and if that is correct, Sir, then there is full legal power for different kinds of bodies or individuals in Bengal to carry on banking business. The one is a corporation, and if it is a corporation it is regulated and limited by sections

277 (*f*), 277 (*g*) and so on, but if it is not a corporation it is not limited by the Indian Companies Act at all; and, therefore, Sir, I would suggest that the real answer is that any definitions in section 277 (*f*) as to the peculiar limitations or peculiar conditions which have to be fulfilled by a banking corporation in order to be classed as a bank under the Indian Companies Act do not have a full or final bearing on the question, namely, what is the definition of banking business.

I hope I have made myself clear. Banking business may be carried on by partnerships of less than ten persons or by a single person. If it is carried on by less than ten persons or by a single person, it will not be regulated by these conditions at all. The other observation I would like to make is totally different and that is this. If one goes through the list of business which is mentioned in section 277 (*f*) of the Indian Companies Act, one comes across such phrases as "dealing with foreign exchange",—I am taking them at random for the purpose of illustrating my point, I am not picking out all the phrases which may illustrate the point,—"the granting and issuing of letters of credit, travellers' cheques and circular notes". Now, Sir, I would think myself a brave man if I contended in this House that the granting and issuing of letters of credit was not banking business; I would consider myself a brave man if I tried to contend in this House that the Central Legislature had no power under the Government of India Act to legislate relating to the granting and issuing of letters of credit. Now, Sir, the moment the Indian Legislature has power to bring in a law on that subject, the Provincial Legislature has not the power. There are other illustrations which I submit also cannot be called other than banking business in the ordinary popular sense of the term, using the term apart from anything contained in the first part of this particular section. I wish to make it clear that I am not now expressing an opinion different to the Hon'ble Minister on the main point. I am only doing my best to assist you in coming to a conclusion on this particular subsidiary point which has been raised.

Mr. PRESIDENT: The particular point which the hon'ble members who wish to take part in this discussion should bear in mind is this—whether the business of lending money is an incidental matter in running a banking business or it is a substantial function of the banking business. That is the point on which opinion is invited.

Khan Bahadur NAZIRUDDIN AHMAD: It has been contended, Sir,——

Mr. PRESIDENT: I want you to speak only on this point whether money-lending is an incidental or a substantial function of the bank.

Khan Bahadur NAZIRUDDIN AHMAD: Yes, Sir, and I have many other points.

Mr. PRESIDENT: For the moment, confine yourself to this point.

Khan Bahadur NAZIRUDDIN AHMAD: With regard to the argument submitted to the House by my hon'ble friend Mr. Ormond, I think he has failed to take notice of another aspect of the matter. With regard to this Bill, the only banks, we are concerned with are those banks which are registered under the Indian Companies Act. I refer to clause 2(1) of the Bill. We are not at all, in this restricted discussion, concerned with the possibility of several persons or one person, as individuals and not being incorporated, carrying on a banking business.

Mr. E. C. ORMOND: On a point of personal explanation, Sir. I am fully aware of the fact that this Bill only refers to banks which are corporations in regard to the notified and scheduled banks; and I am also fully aware of the point which may assist the hon'ble member that the item which is mentioned in the Government of India Act as the exclusive preserve of the Central Legislature is banking business carried on by a corporation. Therefore, I fully concede that it is not reserved to the Central Legislature to legislate for banking when carried on by a partnership firm or an individual. But I was actually referring to the particular question as to what was the definition of banking.

Mr. PRESIDENT: Yes, under the Indian Companies Act.

Khan Bahadur NAZIRUDDIN AHMAD: I am grateful to my learned and honourable friend for explaining his position, but I submit that in this discussion we are concerned with the narrow question of banking business by a corporation and not banking of all sorts whether incorporated or otherwise. We are concerned with the kind of banks which have been defined for the purpose of this Bill in clause 2(*1*), viz., "Bank means a banking company as defined in section 277(F) of the Indian Companies Act, 1913, whether incorporated in or outside British India." We are, therefore, concerned only with banks incorporated under section 277(F) of the Indian Companies Act. In this view of the matter, I submit with great respect that the Hon'ble the Judicial Minister was right in taking into account the fundamental activities of a bank as laid down in section 277(F) of the Indian Companies Act which has been specifically referred to in the definition. I submit, Sir, that the legitimate activities of the kind of banks we are concerned with, that is, banks incorporated under the Companies' Act, can be found by reference to section 277(F) of that Act. With regard

to the other aspects of banking or other kinds of banks, we have, in this discussion, nothing to do whatsoever with them. The question before us being of an extremely restricted character I submit, section 277(F) will completely answer the point.

Mr. PRESIDENT: The difficulty is that the proposed Bill only contemplates excluding certain class of banks but does not provide anywhere for bringing other classes of banks definitely within its purview.

Khan Bahadur NAZIRUDDIN AHMAD: I submit, Sir, as bank has been defined in this Bill, so we ought to consider all our general statements with regard to banking and banks in the defined sense.

Mr. PRESIDENT: What reply have you to make to the point made by Mr. Ormond? The Indian Companies Act contemplates banks as corporations and not all partnerships or individuals that do not come or call themselves as incorporated under the Joint Stock Companies Act.

Khan Bahadur NAZIRUDDIN AHMAD: My reply is short and it is this. With unincorporated banks we are not at all concerned. They are not included in item No. 38 of the Federal List. In fact, in view of the restricted maining which is attached to the word "Bank" in the definition, we are confined to the activities of incorporated banks only and no other banks. Unincorporated banks, carrying on money-lending business, as has been rightly conceded by Mr. Ormond, will be treated as "Money-lenders" under the Bill.

Mr. PRESIDENT: Suppose, five men combine together and call themselves a bank. You say that they will not come under the mischief of this legislation.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: I do not understand what you mean by the word "mischief".

Mr. PRESIDENT: If you do not know the meaning of the word "mischief", I cannot help it. "Mischief" is not used in any offensive sense; it is a legal term.

Khan Bahadur NAZIRUDDIN AHMAD: I respectfully agree with the meaning of the word "mischief" given by you, Sir. Anything which comes within the restrictive activities of the section or an Act is technically called "mischief". Possibly in the heat of the debate, we are likely to lose sight of that aspect of the question. I submit, Sir, we are, at present concerned with incorporated banks.

As to the question which has been put to me that if several persons start a banking business——

Mr. PRESIDENT: A partnership.

Khan Bahadur NAZIRUDDIN AHMAD: A partnership of that kind would not be a "bank" within the meaning of this Bill. That kind of bank will not be a "bank" within the meaning of this Bill, because we are concerned with banks as such, which are incorporated under the Companies Act. Unincorporated "banks" are not "bank" within the meaning of the Bill. If they carry on money-lending business, they will be hit by the Bill as money-lenders and not as "banks". Though they are excluded as "banks," they are included as "money-lenders". They will be treated as money-lenders, pure and simple. Confining ourselves to incorporated banks, I submit that money-lending is not a fundamental function with them as will appear from the specific enumeration in section 277(F) of the Indian Companies' Act. Money-lending would, therefore, appear to be a subsidiary activity with incorporated banks—the banks with which we are concerned.

Mr. KADER BAKSH: Sir, you have asked what are the functions of a bank, and whether money-lending is the principal business of a bank. To answer these questions, the meaning of the word "bank" has to be understood very clearly. What is a bank and what are its activities? Bank, as we understand it, as Dr. Mookerji also has stated, receives deposits from the public and again lends it out to the public for their benefit on interest. Now, this cannot and should not be the object of a bank. The object of a bank should be to accept deposits on certain terms and pay back the money whenever it is wanted.

Mr. PRESIDENT: Order, order. The question is not what should be the object of a bank. I have put the question on several occasions and I repeat it once again. The question is whether money-lending is an incidental or substantial function of a bank.

Mr. KADER BAKSH: I am not going to say what should be the object of a bank. I shall say that what the banks do here in our country is that they take deposits, either current or fixed. Then there is an agreement with these banks that they will return the money on a certain date on some months' notice. Why do people put money in the bank?—For safe custody. And to inspire confidence in the public, these banks ought to behave in a manner which will secure that object.

Mr. PRESIDENT: If it comes under the Central Legislature, it can be done. That there must be some regulation is not doubted, I suppose. But who is to regulate the banks, that is the point.

Mr. KADER BAKSH: Now, Sir, if it is found, as we have found in Bengal, these banks have carried on the business of money-lending only, they can only be described as Shylock-minded individuals. There must be safeguards and sufficient reserves in those banks to ensure any withdrawal whenever demanded. If these banks did not respect that safeguard or have not respected it in the past, certainly there ought to be control by some legislation.

Mr. PRESIDENT: That position has been accepted. But by whom?

Mr. KADER BAKSH: By banks like the Hongkong-Shanghai Bank.

Mr. PRESIDENT: With branches all over India?

Mr. KADER BAKSH: Yes.

Mr. PRESIDENT: Should they be controlled by the Provincial Legislature or by the Central Legislature?

Mr. KADER BAKSH: Those banks which go to that extent in doing good both commercially and otherwise are strictly banks, and they will come under the jurisdiction of the Central Legislature. But banks which are only concerned with Bengal and whose activities are confined to Bengal, i.e., those banks whose money-lending operations affect the people of the province, should, I think, come under the jurisdiction of the Provincial Legislature.

Mr. PRESIDENT: Your point is that banks which are within the province should be under the jurisdiction of the Provincial Government?

Mr. KADER BAKSH: Yes, Sir, mainly because they affect the interest of the people. I do not say wholly but mainly.

Mr. PRESIDENT: That is a very good point and it is also relevant in this connection.

Mr. HAMIDUL HUQ CHOWDHURY: Sir, I am sorry I cannot follow the arguments that have been advanced by the previous speakers on this point. But it appears to me the question is of a very limited nature. The question is whether the business of banking is hit by the provisions of this Bill. If that is the question now before the House, my submission is that banking activities are not limited to money-lending, deposit, earning interest only.

Mr. PRESIDENT: That is one of the activities.

Mr. HAMIDUL HUQ CHOWDHURY: Yes, Sir, one of the activities. There are different banks which earn profit. They are called exchange banks. There are also banks which only make profit by issue of notes. Then, there may be banks which earn profit by lending money; they are money-lending banks. Therefore, the activities of a bank may be varied. It may simultaneously be a bank which issues notes, which deals in exchange and which also lends money. Therefore, those provisions which have been expressly conferred on some other body, the control of which has been conferred upon another body, they come under the general provision relating to control of banking business. If, of the different activities of a bank, some are controlled by this body and some by another body, then the control is divided. The control which is left unspecified in one body generally, that body will control all the activities subject to this that if there has been restriction imposed upon the activities by another provision leaving the question of control in another, the whole will be controlled subject to that. Now, Sir, item No. 27 of the Provincial List speaks of money-lenders and money-lending. Any person whether it is a corporate person or a natural person, wherever it is dealing in money-lending, then to that extent the power of the Central Legislature has been carved out for the benefit of the Provincial Legislature. In other words, all the banking business except this is taken from the Provincial Legislature and left to the Federal Legislature which will control all activities except this.

Mr. PRESIDENT: The Hon'ble Minister made the point that if it is a subsidiary function and not a principal function of a bank, then the local Legislature may have jurisdiction over it.

Mr. HAMIDUL HUQ CHOWDHURY: Unfortunately, Sir, I was not present when the Hon'ble Minister spoke. But I do not agree with what you have said just now.

Mr. PRESIDENT: Let me understand your point. Is it your case that banks have several functions and one of the functions is money-lending also?

Mr. HAMIDUL HUQ CHOWDHURY: May be.

Mr. PRESIDENT: And that the Central Legislature can legislate on all other matters excluding money-lending which may be considered even as a subsidiary function. Is that your point?

Mr. HAMIDUL HUQ CHOWDHURY: What I am contending is that there are two functions, namely, conduct of banking business and the control of banks. There are some banks which only lend money and earn profit. They are money-lenders, pure and simple.

Mr. PRESIDENT: Do you think that the Federal Legislature will be justified, because they have the right, in legislating on banking, that is to say, on the conduct of banking business by corporations. But can they legislate for the whole of India and say that the bank rate should not exceed, say, 6 per cent.? Will they be within their rights in doing so? You contend that it is one of the functions and it is admitted that they have the right to legislate about banking. What is your answer?

Mr. HAMIDUL HUQ CHOWDHURY: What I am now contending is——

Mr. PRESIDENT: Please answer my question first—whether they have the right to legislate for the whole of India?

Mr. HAMIDUL HUQ CHOWDHURY: What I am contending, Sir, is that so far as that part of banking, namely, dealing with money-lending and earning interest is concerned, it comes under item No. 27 and, therefore, it is outside the jurisdiction of the Central Legislature.

Mr. PRESIDENT: Why? If you think that this is the legitimate function of a bank, namely, lending money, then why do you restrict the Central Legislature from legislating on and regulating the rate of interest for the whole of India?

Mr. HAMIDUL HUQ CHOWDHURY: I submit, Sir, we are not concerned here with the question of policy. We are only concerned with the question as to how the functions are divided.

Mr. PRESIDENT: Then, you will agree with me that in case of overlapping, as mentioned in section 100 of the Government of India Act, the power of the Central Legislature shall prevail, if you say that money-lending is one of the accepted functions of a bank. The Statute empowers the Central Legislature alone to legislate on banking, and the right to legislate on money-lending has been assigned exclusively to the local Legislature. But here in section 100, sub-section (*3*), it is made clear that in case of conflict, "*subject to the two preceding sub-sections,*" the Provincial Legislature has the power to

legislate. Once you concede that money-lending is a legitimate function of a bank, then in case of conflict between the two Legislatures, namely, the Central and Provincial Legislatures, the right of the Central Legislature shall prevail. That is the difficulty.

Mr. HAMIDUL HUQ CHOWDHURY: Sir, I am insisting that there is no conflict. The Government of India had purposely taken away some functions of a bank from the control of the Federal Legislature altogether.

Mr. PRESIDENT: The Statute clearly provides that the right conferred on the Provincial Legislature under section 100 *is subject to the two preceding sub-sections.* There is no loophole there. If there is any question of over-lapping, then the local Legislature must yield.

Mr. HAMIDUL HUQ CHOWDHURY: Sir, I am going further than that. I am saying that it is difficult for the Legislature to lay down in detail the function of the Provincial Legislatures that is intended to be carried out. Sometimes, it has to be general. But when there is both a general and a special provision, then the special provision will govern the general one. What I am contending is that bank's functions are varied, the control of banks may be in various manner and to various extent and its activities also are varied. But when the Act has specially provided that one function of it shall not be controlled by the Federal Legislature but by the Provincial Legislature, then there is no question of overlapping.

Mr. PRESIDENT: That would have been quite correct, had not there been the substantive sub-section (3). That is the difficulty. That will depend on the decision as to whether money-lending is an incidental function or is one of the principal functions of a bank.

Mr. HAMIDUL HUQ CHOWDHURY: What I am saying is that it is neither incidental nor primary. It all depends on the function of a bank. Banks generally have been left to the Federal Legislature. Only a particular activity of the bank, namely, money-lending, has been included in this Bill. In this Bill, we do not mention bank at all. We say that every transaction of money-lending by a person—without defining a person, so that a person includes a corporation—shall be subject to the control of the Provincial Legislature in respect of interest, payment, etc.

Mr. PRESIDENT: That was the original provision of the Bill. this provision has now been inserted. In the Bill as it is now presented to the House, specific mention of banks has been made. Otherwise, the point of order would not have been relevant.

Mr. HAMIDUL HUQ CHOWDHURY: I submit, Sir, that there is no specific mention of bank, otherwise it will fall within item No. 27. The complexion of a person or the nature of a person will not affect the power of the Legislature, so far as money-lenders and money-lending are concerned. It is not the character of the borrower or the character of the lender that will qualify the power. Therefore, when the word "bank" generally is used, that should be read subject to the exceptions. In other words, item No. 27 should be read as an exception to item No. 38 of the provincial list, and therefore I submit, Sir, that the question raised by my friend Khan Bahadur Naziruddin Ahmad, namely, that only the banks which are mentioned and covered by the Indian Companies Act are the banks which are excluded, is not at all accurate. All that is excluded are the scheduled banks. There are hundreds of other banks which fulfil the conditions of the Companies Act but which are still hit by this Bill. Therefore, the intention of the Bill as also the legitimate right of this Legislature is to affect that part of the activities of a bank which deals only with money-lending and money-lenders.

The Hon'ble Mr. H. S. SUHRAWARDY: May I, Sir, say a few words on this important point as to whether money-lending by a bank is essential for the business of a bank?

Mr. PRESIDENT: Certainly.

The Hon'ble Mr. H. S. SUHRAWARDY: This is irrespective of the argument which has just been advanced by the Deputy President with which I very much agree.

Sir, the essential nature of a bank, so far as I understand it, is that it is an organization, a corporation or partnership or a person for the purpose of receiving deposits. That is a bank. A man is a banker in this sense. He is my banker, because I have deposited money with him. In order to attract such deposits——

Mr. PRESIDENT: That is banking and not a bank. There is a good deal of difference between the two.

The Hon'ble Mr. H. S. SUHRAWARDY: Quite so, Sir. We start with receiving deposits. In order to attract deposits, a bank pays a certain amount of interest to the person who deposits the money. That interest is to be paid to the depositor. In order that a bank may be in a position to pay that interest—and that interest should not come out of the principal amount deposited but should come out of its earnings—it has got to earn money. Now it can earn money in various ways. The point to be considered is this, must there be lending of money? Is it essential for a bank to lend money in order to earn

money to pay interest to the depositor? You can earn money in various ways. You can invest money in Government securities. Most of the banks invest in Government securities at 3½ or 4 per cent. and pay their depositors 1½ or 2 per cent.

Mr. PRESIDENT: That is purchasing security.

The Hon'ble Mr. H. S. SUHRAWARDY: Yes, Sir. They may purchase industrial securities. There are a number of scrips quoted in the stock exchange, and they may purchase them and make profit on them. They may develop lands. They may purchase lands and put up concerns and make money on mills and factories. Therefore it is not essential that they must lend money to others at a higher rate of interest than they would pay to their investors in order that they should conduct the business of banking. They lend money to individuals because it is an easy way of making money. But surely it is not essential that a bank must lend money to others in order to get a return. Therefore I submit that the Hon'ble Minister is right in stating that lending money is not an essential operation of the bank.

Mr. PRESIDENT: Is money-lending a legitimate function of a bank?

The Hon'ble Mr. H. S. SUHRAWARDY: I must confess that it is. You cannot say that if a bank lends money to others, it is doing something outside the purview of its legitimate activities. It is not illegitimate for a bank to advance money to people.

Mr. PRESIDENT: So, money-lending is also banking.

The Hon'ble Mr. H. S. SUHRAWARDY: Yes, but it is not a necessity. That is to say, a bank can continue to be a bank, to receive deposits and pay interest to its depositors without on the other hand having to lend money to others.

Mr. PRESIDENT: As for example the Reserve Bank of India. I see under section 19 of the Reserve Bank of India Act—

"19. Save as otherwise provided in sections 17, 18 and 45 the Bank may not—

(3) advance money on mortgage of or otherwise on the security of immovable property or documents of title relating thereto, or become the owner of immovable property except so

far as is necessary for its own business premises and residences for its officers and servants;

(4) make loans or advances;

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, the unfortunate position that I now occupy sometimes makes me angry and sometimes sorry. But when I took exception to some remark made by you earlier in the day, I feel that I was in the wrong and I am sorry for that. I hope this temporary lapse on my part will be forgotten.

Now, to come to the point. The Hon'ble Mr. Suhrawardy has explained to you that the legitimate function of a bank is not lending money. We in Bengal have suffered because we do not know the business of banking. Six hundred banks of Bengal have closed their doors simply because they did not know the business. I have been telling my friends my experience of this business They do not understand what a bank should do.

Mr. SACHINDRA NARAYAN SANYAL: Why did not you help those loan banks?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: This state of affairs is responsible for my friends opposite to think that the legitimate function of a bank is to advance loans to individuals.

Mr. RANAJIT PAL CHOUDHURY: How can banks exist without lending money?

Mr. PRESIDENT: The Hon'ble Minister may sometimes appear to be irrelevant but he is making a very important speech and he should not be interrupted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I am in my own element when discussing this matter. I am one of those persons who have prospered in Bengal and my friends know that I have never failed anywhere. I have been telling my friends that they do not know what banking is. Banking does not mean, really speaking, lending money actually. That is a subsidiary affair and what I say has been actually repeated to you by the Hon'ble President when he read out from the Reserve Bank of India Act. The Reserve Bank of India, which is the principal Bank of India, is not allowed to lend any money. If you say that the lending of money is the only function of a bank, then the Reserve Bank of India is not a

bank. Do you seriously maintain that the Reserve Bank of India is not a bank? The very Act under which that bank was constituted forbids it to lend money. The Hon'ble President gave the correct lead to the House when he said that the Reserve Bank of India is a bank and that it has not been given the power to lend money to anybody.

Mr. RANAJIT PAL CHOUDHURY: The Reserve Bank of India is not an ordinary bank.

Mr. LALIT CHANDRA DAS: It is governed by a particular Act.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Please keep all that for your own consumption and not for the consumption of others. The fact remains that the Reserve Bank of India has not been given the right to advance any loans. That being so, in passing the Indian Companies' Act the Central Legislature have rightly held that the advance of loans is not a primary function of a bank. The primary function of a bank is to conserve the reserves of the country in a particular place so that it may be made use of in an emergency. Take the case of the Reserve Bank. What are they doing? They are actually keeping the reserve money of the country sometimes deposited by people and sometimes deposited by Government just for the purpose set out there. When I contended before you that the lending of money was not a primary function of a bank, I was right. It has been borne out by that very Act of the Government of India.

Mr. SHRISH CHANDRA CHAKRAVERTI: What Act?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: The Reserve Bank of India Act.

Mr. RANAJIT PAL CHAUDHURY: Don't be particular. Be general.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: If you would permit me, I would like to read all the 17 functions of a bank. As I have told you, we are not in the days of the English Common Law when nothing was definite and everything was to have been inferred from the opinions and extracts from a book. But here we have got everything codified. This book contains all the information relating to Banks and it says that one bank may have one form and another bank may have another form of business and these 17 forms are—

(1) the borrowing, raising or taking up of money, etc., etc.,

(2) acting as agents for Governments or local authorities, etc., etc., and so on and so forth.

Mr. PRESIDENT: You need not read all that.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: You will see, Sir, that of these 17 forms only one is money-lending and I think there will be 200 to 300 items where bank is to function. Of these, the Government of India have been given power to legislate on all these, but on one particular matter, that is, money-lending, the Provincial Legislature has been given the power to legislate. So, if we exercise that power, we do not trespass upon the sphere of the Government of India and even if we do trespass upon the sphere of the Central Government, we can do under certain conditions. Section 100 of the Government of India Act does not stand in our way, because it is not of such a nature.

Mr. RANAJIT PAL CHOUDHURY: On a point of information. May I ask the Hon'ble Minister what was the reason of these 600 banks closing their doors?

Mr. PRESIDENT: The Hon'ble Minister may continue his speech.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: On a point of information, Sir. I understand from the speeches just delivered that the first business of a bank is to take deposits. For the purpose of encouraging depositors, they allow a certain percentage of interest. But my question is whether any bank can exist by taking deposits only without lending any money to any person.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, the conditions of the country——

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: What about my point of information? Is the Hon'ble Minister giving me a reply?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: I admit that point.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Am I to understand that it has been admitted that a bank cannot exist without lending money in some form or other or against goods or anything like that?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: All that I can tell him is that so far as banks are concerned, if my friends forget their knowledge of Bengal, they will be the better for it.

They must forget that a bank does not exist simply for the purpose of lending money to others. That is not the primary function of a bank. That is why so many banks have failed in Bengal.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Can any bank exist without lending?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Yes.

Mr. RANAJIT PAL CHOUDHURY: Are banks philanthropic institutions?

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Can banks exist by only taking money and without paying any interest and without lending money?

Mr. PRESIDENT: There should not be so much interruption. I think, the honourable member was not present when the Hon'ble Mr. Suhrawardy explained how the exchange banks do subsist even without going through the process of lending money. I think the Hon'ble Nawab Sahib also referred to the Reserve Bank which does not lend money.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: When I said that it is a subsidiary function and not a principal one, the House began to suspect my assertion and probably thought that I was not right. But I am an old businessman having knowledge of banking and management of banks. Really speaking, I know that the lending of money is not the primary function of a bank. Anybody who has attempted that has failed. Now, when the Government of India Act was framed, the framers perfectly knew the conditions of the country and they did not use words which are meaningless. The 1934 Act of the Government of India under the name of the Reserve Bank Act and the present attempt of the Government of India to restrict the conduct of banking with sufficient safeguards for the interests of the depositors, is the real attempt of the Government of India to do their part of the work. Not a word you will find in that Act where the Government of India wants to trespass upon the sphere of the Provincial Legislature and to say that the Provincial Legislature has no right to legislate on money-lending by corporations. The meaning of the expression "conduct of banking business", you will find from the draft publication of the Bill which the Government of India has proposed to bring before the Central Legislature. As I have already said, not a word you will find by which they say that money-lending by banks will be controlled by the Government of India Act.

Now, Sir, my task is over. So far as a politician is concerned, you will pardon me if I now encroach upon the filed of my expert friends, the lawyers. There they will quote chapters and verse and phrases from the rulings or orders of the Hon'ble Justices of different Courts regarding the rules and interpretations and so on. I am not a practising lawyer and I will not be able to put it in a legal language which my lawyer friends may do; but still I should like to dabble in others' affairs and to inform the House of the principle which has recently been enunciated by the highest Judicial Tribunal of the land, I mean the Federal Court, in the matter of the Central Provinces and Berar Sales of Motor Spirit and Lubrication Taxation Act, 1938. His Lordship Sir Maurice Gwyer said that when there is an apparent conflict between the different parts of the Government of India Act, the judiciary should try to reconcile the two parts instead of giving a pedantic and narrow interpretation on it. There the Central Provinces imposed a tax on the sale of petrol. The Government of India questioned the right and said that they trespassed upon the Central subject of excise duty. But His Lordship gave his opinion that this apparent conflict is reconcilable and said that the province has the right to legislate apparently on the same kind of subject under item No. 48 of list 2 and fix its own duty on the sale of goods including petrol. This attempt of the highest judiciary of the land to harmonise the different parts of the Government of India Act is very welcome and if we apply this principle to our present trouble which my friend has created, we may also reconcile the two parts of the Government of India Act and say that the province has the right to legislate on money-lending either by persons or by a corporation. I here intend to refer to 43 Calcutta Weekly Notes containing the report of the Federal Court of India at page 2 which runs thus: "A general power ought not to be so construed as to make a nullity of a particular power conferred in the same Act and operating in the same field, when by reading the former in a very restrictive sense, effect can be given to the latter in its ordinary and natural meaning". Now, from this you will find that the Hon'ble Chief Justice of the Federal Court is of opinion that when the two parts of the Government of India Act apparently seem to be conflicting, the two Acts must be read together and the proper meaning must be given to it so that they reconcile each other.

Dr. RADHA KUMUD MOOKERJI: According to your convenience.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: So, this is the real position. We are to deal with just one function only of a bank and not with 200 other functions which a bank may perform.

Now, I may tell my friends here that they may say that we are wrong; but how have you actually come to that decision? We have said that those people who are honestly carrying on the business of banking——

Mr. PRESIDENT: That is going into the merits. I think the Hon'ble Minister has sufficiently explained the point.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I have only one word more to say. So far as we are concerned, we are not actually members of a judiciary who are the right persons to deal with the matter.

Dr. RADHA KUMUD MOOKERJI: Question.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: My friend questions. Again I repeat that many of us are not of that frame of mind which gives a detached view. It requires not only intelligence and knowledge but also a broad heart to decide such an important question. Here, we are working on party lines. Here, we cannot be Judges. I frankly admit that a Judge requires that kind of head and heart which will put him above all party politics. So far as we are concerned, we are practically working from the political point of view. But if any party is aggrieved by this legislation, they will at least have this consolation that this is a legislation by themselves and I think nobody should agree to hand over this power to a third party who can do whatever it likes without even consulting you or even asking you for an opinion. I think that if any party feels aggrieved by the action of the Legislature or even if the Central Government or the Governor-General so desires, I would refer them to place the matter before the Federal Court which is the proper authority to decide the validity or invalidity of any legislation. It is this impartial Tribunal which has come into existence in India which must decide the validity or invalidity of this particular legislation. So, if anybody is aggrieved, instead of quarrelling here and wasting his energy, he should place his case before the Federal Court and this Government will be perfectly willing to go there and place their case and get a decision. But till this is done, we should not dabble in these things and we should leave the matter as it is. We should work according to the wishes of the majority of the House. If the majority of the House throws out the Bill, they have every right to do so. Not only a particular section and not only a fringe of it, but the whole Bill they can throw out, if they so like. Why should a third party decide it? If you really think that the majority is imposing its will on the minority, the minority is at liberty to go to the Federal Court and

there argue that the whole Bill or a certain portion of it is wrong. That is the correct attitude that one should take. I make the suggestion in all seriousness and I am firmly of opinion that none of us excepting the Hon'ble President is of that frame of mind that we can justly say whether our action is valid or not. So, I would appeal to you not to touch even that fringe of the Bill because it does not do any harm to the Bill at all. The whole Bill, as it is, will be all right. Those few sections are the most important sections, and they are meant to do good to those people for whom the Bill is being enacted. Government are thinking of expanding the scope of the Bill by adding to the list of banks and also adding to the number of notified banks so that they may function without any interference by this Bill.

One mischief you may do. You may take away this clause.' What I say is this. In this Bill there is the definition part.

The Hon'ble Mr. H. S. SUHRAWARDY: Before you, Sir, pass your final judgmont on this point, may I know whether you will keep open this matter for discussion?

Mr. PRESIDENT: I think all the points have been discussed now.

Dr. RADHA KUMUD MOOKERJI: At the beginning I made it quite clear that I have many other points to bring forward to your notice besides the particular point that you raised.

The Hon'ble Mr. H. S. SUHRAWARDY: If the matter is open to discussion, I hope you will allow me some further opportunity.

Rai Sahib INDU BHUSAN SARKER: Mr. President, Sir, on a point of information.

Mr. PRESIDENT: The Hon'ble Minister has not yet concluded his speech. He is going to conclude now.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Suppose, you now take out these two clauses of the Bill which are exceptionally useful for protecting some of the reserved banks and suppose by implication or by a decision of the Tribunal it comes to this that the Bill will extend to all the banks without exception, by omitting this section from the body of the Bill you will do positive mischief to the country. You think of this before you finally decide. This useful provision which has been incorporated in the Bill should not be thrown out simply for the fun of it. I appeal to you all to consider all these aspects before you come to a final decision.

Mr. PRESIDENT: Order, order. I would like to know if the hon'ble members would like to sit after the prayer time. On official matters, I generally go by the advice of the Minister. If he wants to sit and if you are agreeable, the Chair has no objection.

Khan Bahadur M. ABDUL KARIM: I have not made up my mind; I am still wavering on that point. As regards the query from the Chair, I give the opinion of this part of the House that we had better adjourn till to-morrow.

Mr. H. C. A. HUNTER: We agree.

Mr. E. C. ORMOND: Sir, may I take this opportunity of offering a personal explanation on another point, and that is this. When you, Sir, asked us to make any observation we thought worth while, we on side of the House understood that it was only on one very narrow point of the whole matter. Therefore, I for one did not go into the other points. In fact, there are other things to be said also in favour of the Hon'ble Minister's view which I had in my mind to say. But in answer to your question at that time, I considered that these did not arise. Therefore, I hope we will have an opportunity to say all those things if we continue the discussion to-morrow.

Mr. PRESIDENT: I have correctly understood your viewpoint. It is only on one particular point that you expressed your opinion. That binds in no way the other members or the general attitude of your party as regards the Bill.

Mr. E. C. ORMOND: If I may say so, it was even narrower than that. It was not the whole point. I understood you to ask whether there was an answer to the particular question raised by the Hon'ble Minister, because in the Indian Companies Act there was a definition that a banking company had to have as its principal sort of business some sort of business or no other business save the banking business.

Mr. PRESIDENT: Order, order. The House stand adjourned till 2-15 p.m. to-morrow."

Adjournment.

The Council then adjourned till 2-15 p.m. on Tuesday, the 9th January, 1940.

Members absent.

The following members were absent from the meeting held on the 8th January, 1940:—

(1) Rai Bahadur Manmatha Nath Bose.

(2) Mr. Humayun Reza Chowdhury.

(3) Mr. Narendra Chandra Datta.

(4) Khan Bahadur Alhaj Khwaja Muhammad Esmail.

(5) Mr. Kanai Lal Goswami.

(6) Mr. Latafat Hossain.

(7) Mr. Humayun Kabir.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Tuesday, the 9th January, 1940, at 2-15 p.m. being the twenty-first day of the Third Session, pursuant to section 62(2)(a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Concession in fares by the River Steam Navigation Co., Ltd.

130. Mr. RANAJIT PAL CHOUDHURY: (a) Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state whether it is a fact that no concession of fares are given, as in case of the State Railways, to the public during the Puja, Christmas and Easter holidays by the River Steam Navigation Co. Ltd., who have got the monopoly for carrying passengers in the rivers of Bengal?

(b) Is the Government aware that such refusal to grant concessions in fares causes great hardship to the public?

(c) Does the Government propose to take steps so that the concession in fares during the above-mentioned holidays is also granted by the aforesaid companies like the railways?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Hon'ble Mr. H. S. Suhrawardy): (a) No. The River Steam Navigation Co. Ltd. do allow certain concessions, which in some cases are more generous than those of the railway. A comparative statement showing the concessions allowed by the Eastern Bengal Railway and the River Steam Navigation Co. Ltd. is placed in the library.

(b) and (c) Do not arise.

Control of prices of all classes of commodities.

131. Mr. KRISHNA CHANDRA ROY CHOWDHURY: (a) Will the Hon'ble Minister in charge of the Commerce and Labour Department be pleased to state whether it is a fact that the prices of necessary articles, e.g., medicine, oil, ghee, cloth, rice, flour etc. of Itna Bazar, Naldi Bazar, Mithapur Hat, Brahmandanga Hat of

police-station Lohagara in the district of Jessore are increasing from about 100 to 300 per cent.?

(b) Is it a fact that villagers approached the officer-in-charge of the Lohagara police-station in Jessore and the Presidents of the Union Boards but no action was taken?

(c) Did the District Magistrate and the Subdivisional Officers visit the above-mentioned markets for fixing the prices after the declaration of war? If so, how many times? If not, why not?

The Hon'ble Khwaja Sir NAZIMUDDIN (on behalf of the Hon'ble Mr. H. S. Suhrawardy): (a) No: but it is a fact that prices of some of the articles have arisen because of the war.

(b) It is reported that no one approached the officer-in-charge.

(c) After 6th November the Subdivisional Officer visited Naldi once, and Lohagara on two occasions; but no complaint was made to him about abnormal rise in prices. Maximum prices of food-stuffs were fixed by the District Magistrate on 8th December, 1939, and communicated to thana officers.

The Bengal Money-lenders Bill, 1939.

Mr. PRESIDENT: The House will now resume the further consideration of the Bengal Money-lenders Bill.

Dr. RADHA KUMUD MOOKERJI: Sir, in rising to speak on the point of order that has been raised in this House, I should like to say that the point raises many fundamental questions concerning the legality of the step that the Government has taken in introducing a measure which, in the opinion of some of us, is clearly beyond the province of the Provincial Legislature. I should like, however, to be very brief and as far as possible to the point. Instead of wasting the time of the House by repeating the arguments that have already been advanced, I wish to concentrate for the time being on sections 100 and 107 of the Government of India Act itself and also on items 28 and 38 of the Seventh Schedule thereto. It is, I think, admitted on all hands that the subject of banking is included in the lists relating to both the Federal and Provincial Legislatures. The question that now arises is: where there is some common ground between the two Legislatures, how to avoid a conflict of jurisdiction as between the two Legislatures. I am quite prepared to understand the Act in the spirit in which it has been framed. It has certainly not been framed to encourage a state of conflict between the Provincial and the Federal Legislatures. Since the subject of money-lending has been included as fit subjects in one list or another, I think it is our duty to find out the points of agreement

that have been evolved. The position that I am going to take up is this. I think that banking as such can never by any stretch of imagination be brought within the field of provincial legislation. Secondly, I think that an agreement may be reached where there is such a conflict of jurisdiction by accepting the proposition that money-lending as such may be controlled by the Provincial Legislature in any way it likes, provided the money-lending concerns not corporations but persons carrying on the business of money-lending in the ordinary course of their economic avocations. So, the reconciliation that I am going to suggest is this. The Provincial Legislature is fully empowered to control money-lending as a pursuit of individual or a body of persons who do not form themselves into a corporation as such.

Mr. PRESIDENT: Order, order. I wish the hon'ble members who address the House on the point of order to be very specific and quite to the point. As a matter of fact, the Chair is not bound to hear any member on a point of order. But I desired to have some assistance from the hon'ble members and so I have invited their views. At the same time, I would draw their attention to the fact that the whole of yesterday's sitting was taken up with the discussion of this point of order; to-day I should like to hear only new points, if any. The matter has already been discussed threadbare. The point which the hon'ble member is making is not disputed. It is no use repeating the same arguments.

Dr. RADHA KUMUD MOOKERJI: I am afraid, Sir, that my point has not been fully understood. My point is that the conflict in respect of jurisdiction may be reconciled if it is accepted that the Provincial Legislature is empowered to control money-lending when it is pursued by individuals and not by corporations as banks. I am going to prove this position.

Mr. PRESIDENT: Prove that.

Dr. RADHA KUMUD MOOKERJI: Yesterday I argued the point that in my opinion banking depends on money-lending as a primary function. Without money-lending in some form, no bank can carry on its business. I think, Sir, that in this connection I may quote one of the highest authorities on the subject. "The business of banking, generally speaking",—this definition occurs in that monumental treatise, Palgrave's Dictionary of Political Economy—"consists in taking money on deposit and also in issuing drafts by which the transfer of capital is facilitated. The funds thus obtained together with those supplied by the capitals of the banks themselves are employed in

making advances in the discounting of Bills and in investments in first-class securities, such as, the public funds, some parts being always kept to meet current requirements." Now, in this very authoritative and comprehensive definition of banking you will, I hope, understand that it is impossible to conceive of banking apart from advancing money, financing business, which amounts really to lending money in some way or another. Yesterday, there was a reference to exchange banks and to the character of their business. I venture to think that even where exchange business is facilitated by so-called exchange banks, if you analyse the economic functions, you will find that ultimately it means short-term loans or accommodation. It may be an accommodation for three months, but that does not affect the main character of the transaction or the function in which the bank engages. So, my position is this: that it is inconceivable to find any bank that does not depend upon lending money as one of its primary functions. Now, in support of this proposition, I beg further to point out that it is very natural that a bank must take to money-lending as its main occupation. The bank receives money from the public on which the bank pays out interest and the bank must earn interest which it pays out in the shape of investment. And the investment must fetch a much higher rate of interest than the rate which the bank pays to its depositors. Again, inasmuch as banks declare dividends on their own shares, the declaration of dividend is made on the basis of actual savings effected.

Now, there was a reference to the Reserve Bank of India yesterday to show that there is at least one bank functioning in India which does not depend upon money-lending. Yesterday, I generally placed my objection to that position, but to-day I have got here the Reserve Bank Act from which I would like to quote. Section 17(4) of the Reserve Bank of India Act states that one of the functions should be "the making to States in India, local authorities, scheduled banks and provincial co-operative banks of loans and advances repayable on demand or on the expiry of fixed periods not exceeding ninety days, etc. etc." Mind you there is the clearest possible reference to the kind of money-lending in which even the Reserve Bank of India must indulge in order that its business may go on. Only in the case of the Reserve Bank of India, on account of its exceptional position and power and of the purposes for which it was constituted, money-lending is restricted within certain fields. Those fields are indicated by Indian States, local authorities like municipalities and district boards or scheduled banks or provincial co-operative banks. To all these bodies and institutions, the Reserve Bank is bound to make advances, to lend money repayable on demand or on the expiry of a fixed period not exceeding ninety days, against proper securities. So, I venture to say that even where there is the case of such an exceptional bank which is not an example of the ordinary type of banks in the country, if you take your

illustration from a most exceptional bank in the country functioning for certain definite purposes of the State, even in such a case, because you call it a bank you cannot abolish this function of money-lending although this money-lending is pursued in certain prescribed fields and that in a certain sense the Reserve Bank of India has been created to serve the purposes of a bank of banks or the bank of Governments and Provincial Administrations. The Reserve Bank of India has taken over some of the functions which were carried on by the Imperial Bank of India, and just as the Imperial Bank of India cannot subsist for a single day if its powers of money-lending are restricted or abolished, similarly the Reserve Bank of India regards as one of its primary functions this process of money-lending.

As regards the repetition of this item in the two lists—Federal and Provincial—I have already stated that where there is a doubt and where there is a conflict of jurisdiction, of course the provincial sphere must yield to the central or the federal sphere. That is definitely laid down in the sections to which I have referred, namely, sections 100 and 107. Now, what I mean to say, therefore, is that there is a particular reason behind the repetition of this item in the two lists, and the only way for a compromise is to be found in the proposition that I have just now put forward, namely, that the Provincial Government is thoroughly justified in controlling money-lending where it is resorted to as an economic pursuit by individuals but not by such bodies or persons as constitute themselves as corporations. If money-lending is carried on by a corporation, in my humble opinion, the subject passes beyond the sphere of the Provincial Legislature into the Central. Sir, I have finished and I have no further remarks to make.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, the point raised is extremely important. But I shall be very short in dealing with it. Yesterday, I dealt with one aspect of it, but to-day I shall deal with the rest. It has been said that section 10 of the Money-lenders Act of 1933, as amended by the Adaptation Order, really stands against the contention that the Bill is *intra vires*. I am prepared to submit that this very amendment made by this Adaptation Order, instead of going against that contention, really very strongly supports it. The amendment effected by the Adaptation Order is an addition of sub-section (*3*) to section 10. It runs thus: "The powers conferred by this sub-section on the Provincial Government shall, in relation to banking business carried on by any corporation, be the powers of the Central Government". My interpretation of this sub-section is that the powers which were hitherto exercisable by the Central Government, on account of the Schedule making money-lending a provincial subject, those powers which were exercisable over money-lenders when they were banks, would now be exercised by the Provincial Government. That is the interpretation which I propose to give. You will be pleased

to consider, Sir, that the Adaptation Order is a creature of section 293 of the Government of India Act. In that section, power has been given to His Majesty the King to make changes in the existing Central or Provincial Acts so as to bring those Acts into line with the new Government of India Act. One of the powers specifically mentioned in that section is that His Majesty, by the Adaptation Order, may "prescribe the distribution of legislative and executive powers between the Federation and the Provinces". I submit, Sir, that banking was previously, as now, a Central subject, but money-lending under this Act is now exclusively a Provincial subject. So, on account of the passing of the Government of India Act, it was necessary to transfer the control of banking business in relation to its money-lending aspect and confer the power to the Provincial Government. That is how it sounds, and I shall, again with your kind permission, request you to see whether my contention is justified. The power conferred by this section on the Provincial Government—that is the power of making rules in conformity with the Money-lenders Act of 1933,—shall in relation to banking business carried on by any corporation be the powers of the Central Government. In other words, money-lending by incorporated banks will be within the executive and legislative jurisdiction of the Province. The powers of the Central Government are no longer exercisable by the Central Government in relation to money-lending transactions even of incorporated banks. So, banking business, according to this addition, must be considered in two parts, namely, banking proper and money-lending. Money-lending being a Provincial subject, the money-lending activities of incorporated banking concerns are transferred to the Provinces and power is given to the Provinces—the same power that was exercisable by the Centre. So, it seems that the new powers of the Provincial Government will be the powers hitherto exercisable by the Central Government. Power over money-lending transactions of incorporated banks has been transferred from the Centre to the circumference, I mean, the Province and hence the provision has been inserted in this Bill. If the power was transferred from the Province to the Centre, the provision would have been inserted in the Indian Companies Act or some other suitable Central Act. That is what, according to ordinary construction and simple meaning, the sub-section seems to convey. I, therefore submit, Sir, that there is here a clear indication that all money-lending activities can be controlled by the Province, irrespective of the fact that money-lenders are incorporated banks.

I come to the next head,—Item No. 38 of List I. With your permission, Sir, I submit that banking has got to be understood in a narrow and a restricted sense. The item runs thus: "Banking, *that is to say*, the conduct of banking business by corporations". The expression "that is to say" clearly restricts the wider idea of banking.

Banking, as it is used in this item, is to be understood in its restricted sense of "Banking, in other words, the conduct of banking business by corporations". I, therefore, submit, Sir, that the "conduct of banking business by corporations"—that aspect of banking alone—is a Federal subject. We cannot ignore the obvious force of the expressions used. It, therefore, follows that the money-lending aspect of banking would come under List II, a Provincial subject, and that item 38 of List I does not at all modify it. The word "corporations" shows that unincorporated banking business and concerns are not Central, as they do not come within item 38. Judging from all aspects, it follows that item 38 of List I does not control or modify the power given to the provinces to legislate relating to "money-lending and money-lenders". I do not wish to elaborate this point any further but leave it there.

Now, Sir, I shall pass over to the next contention. It is this: assuming that there is some indirect conflict between a Federal item and a Provincial item, I shall suggest a rule of construction which has been taken by me from various leading cases, especially the leading case of the Federal Court relating to Excise duty *versus* tax on the sale of goods. You will be pleased to remember, Sir, that there a question arose as to whether a tax on the sale of petrol was "Excise" or whether is was a tax on "sale of goods". The three learned Judges of the Federal Court came to the unanimous conclusion that the word "Excise" taken from an economist's point of view would overlap with tax on "sale of goods". There was clearly no getting away from indirect overlapping. Though there was no direct overlapping; still their Lordships found that they indirectly overlapped. In order to avoid this indirect overlapping, the Federal Court formulated certain rules of construction which, I submit, Sir, would settle this matter also. formulated certain rules of construction which, I submit, Sir, would They rejected the economist's definition of the term "Excise" and accepted a restricted meaning and thus avoided a conflict.

The formula suggested by them is this: "We must not give the widest possible meaning or too literal a meaning to the two competing items as this would definitely lead to overlapping." Thus, if we try to interpret the two competing items giving them their maximum literal meaning, that would be actually and needlessly inviting indirect overlapping. Their Lordships said that this method of interpretation—an interpretation to invite indirect overlapping—would be a wrong way of interpreting the items. A restricted meaning given to the Federal item would reconcile the items and would prevent such apparent overlapping.

Mr. PRESIDENT: Order, order. I have carefully read the judgments delivered by the Federal Court. You need not elaborate

that point. If you want to help the Chair, how do you propose to reconcile the conflict?

Khan Bahadur NAZIRUDDIN AHMAD: Sir, what I was trying to submit is that if there was incidental overlapping it may be ignored as has been laid down in the recent Madras Full Bench case.

Mr. PRESIDENT: Do you agree that there has been overlapping in this case?

Khan Bahadur NAZIRUDDIN AHMAD: I conceded that only as a matter of argument. I do not say that there is real or substantial overlapping. I submit, Sir, that there was no overlapping because item 38——

Mr. PRESIDENT: It is not necessary to elaborate that point because you do not accept it as overlapping.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, the difficulty is that the point has been taken, and I cannot anticipate what your ruling will be.

Mr. PRESIDENT: That point has been discussed threadbare. I want the House to pay special attention to the particular point, namely, whether money-lending is a principal function of banking.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I shall quote a few passages from the judgment of the Federal Court. That will be a sufficient answer.

Mr. PRESIDENT: It is not necessary to do that. I have gone through the text of this judgment several times. I want to hear you only on new points, if any. The principle is well-known. I want to know how application may be made of this principle in this particular case.

Khan Bahadur NAZIRUDDIN AHMAD: May I then, Sir, read the head-note to the leading case?

Mr. LALIT CHANDRA DAS: Head-notes are always misleading.

Khan Bahadur NAZIRUDDIN AHMAD: Not "always". In this case, the head-note is absolutely accurate.

Mr. PRESIDENT: I think that it is not necessary.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, the head-notes as well as the various passages in the Judgment of the Federal Court make it clear that, unless the items so overlap that they cannot by any means be reconciled, such overlapping must be ignored and the Province will not give way. That has been held in several cases by the three learned Judges. In fact, the power given to the Province is absolutely clear in this respect. The power is that we can legislate on money-lenders and money-lending.

They have further laid down that where the power of the Province is absolutely clear and there is no clear or direct restriction on that power in the Central item or if there is merely an incidental restriction on that power, the Province will prevail. The language of Article 38 in List I, does not definitely or clearly restrict the power. The Provincial item "money-lenders and money-lending" is a clear power and unless it is fully and clearly restricted by the Federal item, it will prevail. Unless the power is adequately or properly restricted, full effect will be given to it. That is the practical test. Their Lordships further say that as there are two separate and comprehensive lists, namely Lists I and II—and this is a unique and a peculiar feature in the Indian constitution—it must be presumed that these two lists are intended to be mutually exclusive. That is, the power given to the provinces cannot be taken away—except by clear and precise words—by the power given to the Federation. That has been held very definitely by the three learned Judges in this leading case.

Mr. PRESIDENT: It is not necessary to argue those points. An attempt certainly has been made to have two exclusive Lists. But having regard to the limitations of human ingenuity, provision has been incorporated in the Act itself to meet cases of overlapping that might occur. If you once concede that there is overlapping, you have no case. According to the provisions of section 100, in case of overlapping, the jurisdiction of the Federal Legislature shall prevail. But the Hon'ble Minister's case is that there has been no overlapping in the present Bill. According to well-established principles of interpretation, an attempt should be made to reconcile any apparent conflict of jurisdiction. I want to know if you have any suggestion to offer for reconciling the conflict which is supposed to have arisen by reason of overlapping.

Khan Bahadur NAZIRUDDIN AHMAD: I find, Sir,——

The Hon'ble Mr. H. S. SUHRAWARDY: On a point of order, Sir. If it is your decision——

Mr. PRESIDENT: Order, order. I have not yet come to any decision. I am only considering the point.

Khan Bahadur NAZIRUDDIN AHMAD: I respectfully submit, Sir, that you have laid down the correct test, that we should try to reconcile. I quite agree. In that view, I need not argue the point any more. The practical question is whether we can reconcile the items. If we cannot reconcile them by any means, then the Province must give away, otherwise not. If we can by any means reconcile, then the Central Legislature must give way. That is the point I was driving at. I feel considerably relieved by the enunciation of law made by you on this point. Now, the only point is, whether they can be reconciled. I have already submitted that they can be reconciled in this way that "money-lenders and money-lending" is peculiarly and exclusively a matter for the province. There is no difficulty or ambiguity there.

Mr. PRESIDENT: I interrupt you only for one moment. These are the observations of their Lordships. "Reconciliation should be attempted between two apparently conflicting jurisdictions by reading the two entries together and by interpreting where necessary and modifying the language of one by that of the other. If indeed such reconciliation should prove impossible, then and only then will the non-obstante clause operate." So, these principles are all settled now and there is nothing to argue about them.

Khan Bahadur NAZIRUDDIN AHMAD: I find I was labouring an obvious point. These are exactly the passages I intended to refer to. Now, I shall submit the effect of that ruling. It was Excise on goods versus tax on sale of goods. It was found in that case——

Mr. PDESIDENT: I would draw your attention to a further passage. "In one aspect and for one purpose, a subject may fall within the powers of Federal Parliament and in another aspect and for another purpose within the powers of the Provincial Legislature." This is from the Madras case, page 49.

Khan Bahadur NAZIRUDDIN AHMAD: That makes my work easier still. I respectfully agree that that is the correct position. Taking the effect of the ruling in the Federal Court between "excise" and "tax on sale of goods", we find that their Lordships found in that case that there was some amount of apparent conflict between the Federal and Provincial items. There arose what was described as a kind of indirect overlapping or an apparent conflict. They said that the sale of goods might be taxed from one point of view and the same might be taxed again as Excise. Their Lordships rejected the economists' definition of Excise and gave a restricted meaning to it and thus avoided a conflict.

Mr. PRESIDENT: Let us come to our own case.

Khan Bahadur NAZIRUDDIN AHMAD: With regard to the question before us, as the matter stands, the province has the power to legislate on "money-lending and money-lenders" and the power is clear, specific and absolute. There is no doubt about it and there is no reason for not giving full effect to this power. I submit that this power has not been, either expressly or by clear implication or in any other manner, taken away by the Federal item No. 38. If we restrict item 38 of List I to "conduct of banking business", there is no conflict and that is the reconciliation I propose.

Mr. PRESIDENT: The further point is that legislation must not, under the guise of dealing with one matter, in fact encroach upon the forbidden field (report of the Appeal case, 1933). That is what I would like to guard against.

Khan Bahadur NAZIRUDDIN AHMAD: There is no doubt that we must not pretend to utilise legal principles for the purpose of violating them. The wording of item 38 in the Federal List does not at all militate against the clear power given to the province. The Federal item is confined to "conduct" or management of "banking business", while the Provincial item deals with "money-lending and money-lenders". The one deals with the "conduct of business" and the other with interests and instalments and the like. They do not necessarily clash. That is how they may be reconciled.

I shall submit another aspect of the case, namely, we are developing provincial jurisdiction. That is largely a matter of evolution. We are working provincial autonomy and we must not surrender our rights and privileges by anticipation. We must hold the provisions to be legal unless clearly found to be *ultra vires*.

Mr. PRESIDENT: On this point I can assure the House that the Chair is anxious not to allow in any way the restriction of the jurisdiction of the local Legislature unless I am absolutely clear in my mind that we are going beyond our jurisdiction. So, no argument is necessary to convince the Chair that we should be jealous of our powers.

Khan Bahadur NAZIRUDDIN AMAD: Sir, that fully and clearly reassures us. In that view of the matter, further arguments are unnecessary and I shall cut short my speech and submit that in view of the effect of the addition of sub-section (*3*) to section 10 of the Money-lenders Act of 1933 and in view of the fact that the term "banking" is expressly restricted to "conduct of banking business" and not used in its widest sense, there is no real clash and that even if there is an

apparent conflict it can be reconciled as above. At any rate, there is enough room for doubt to allow the Bill to be passed into law leaving the matter to be elaborately thrashed out before a more appropriate forum, that is, the Court.

Sir, I have nothing further to add. I submit that from all the points of view the House has jurisdiction to pass the Bill.

Mr. KAMINI KUMAR DUTTA: Sir, I propose to be very short, as the matter has been restricted to definite issues by you. In my view, banking consists not only in accepting deposits but also in lending out money. I also think that between these two Lists there is overlapping. At the same time, I would say that if this Bill is *intra vires* and not *ultra vires* of the Provincial Legislature, it would be useless to try to whittle down the scope of banking into merely an institution for taking deposits. There are banks which not only take deposits but deal in lending and exchange also.

Sir, it has been said that lending is a subsidiary function of a bank. Whether it is a subsidiary or a fundamental function, that is immaterial for the purpose of the law. It is not the economist's view but it is the legal view which must prevail. No doubt, Sir, in the colonial countries, a distinction has been made between direct overlapping and ancillary overlapping. In the colonial court, it has been said "A distinction must, however, be drawn between direct overlapping of enumerated subjects and a case where incidental or ancillary provisions in a Federal Legislation on a subject within the exclusive Federal field entrench on a Provincial enumerated subject. In the latter case, the Federal legislation would have predominance in the event of repugnancy to any Provincial enactment." That is, in that case the repugnancy should be in the constitution itself. It is not *ultra vires* if that House have the right to pass law but the law passed by the Central Legislature would have the predominance. But I think this would not be applicable here.

Mr. PRESIDENT: I would like to draw your attention to this fact. There is a clear distinction between statutory powers in the Constitution of the Dominion of Canada and India. Section 100 makes that perfectly clear. If there is overlapping, there is no scope for argument; then the power of the Central Legislature shall prevail. But as I have said repeatedly, what may apparently look like overlapping may not be overlapping in the true sense of the term. In the Dominion Legislature, they have no such clause. The confederating States both in Australia and Canada had their separate and independent existence in the beginning. But later on, they decided to federate for mutual advantage in respect of certain matters of common interest. But in India, we began in the reverse order. Here, originally we started with a centralised government and in the process of gradual

evolution, the component parts have now been deprovincialised. Consequently, the analogy of the Dominions will not always hold good here.

Mr. KAMINI KUMAR DUTTA: I was also going to say the same thing which is just in accord with the remarks of the Chair. It is really for this reason that the colonial law would not be applicable to India. The only provision of repugnancy is laid down in section 107 of the Government of India Act and that is applicable to matters included under List III. Apparently, there is a conflict between Lists I and II. It will, therefore, be repugnant to the constitution itself and it will be *ultra vires*.

Mr. PRESIDENT: May I refer the hon'ble member to sub-section (*3*) of section 100 of the Government of India Act, where the words "with respect to" occur?

Mr. KAMINI KUMAR DUTTA: It is really controlled by sub-clause (*1*).

Mr. PRESIDENT: That is, once it is settled that there is overlapping, we cannot get over it. But apparent overlapping may not be real overlapping in the true sense of the term.

Mr. KAMINI KUMAR DUTTA: There is an apparent overlapping. The only question for determination would be whether if the two articles are read together, there is any way out of this.

In this connection, I would like to submit this that where in one list there is a general power given, and then in another list there is a special power given for a particular item included within that list, then according to the dictum of their Lordships of the Federal Court, the special list should prevail. I will finish by reading that portion of the judgment. It runs thus:—"It is not perhaps strictly accurate to speak of the provincial power as being excepted out of the federal power, for the two are independent of one another and exist side by side. But the underlying principle in the two cases must be the same, that a general power ought not to be so construed as to make a nullity of a particular power conferred by the same Act and operating in the same field, when by reading the former in a more restricted sense, effect can be given to the latter in its ordinary and natural meaning." Indeed, it has been laid down in that very ruling of their Lordships of the Federal Court that in cases in which there is an apparent conflict, the general power given in the list is cut down to that particular extent of the special law and the special law is to prevail. So, I say that really it will be *intra vires* and not *ultra vires*; but I am absolutely of opinion that there has been overlapping.

Mr. HAMIDUL HUQ CHOWDHURY: Sir, I will be very short in my speech, as I propose to deal with only one point. I should suggest that in respect of the method of approach to the question raised as to whether a particular Bill is *intra vires* or *ultra vires*, the function of the President, I respectfully submit, is to see whether a *prima facie* case has been made out in respect of the introduction or passing of a legislation and if he is satisfied that a *prima facie* case has been made out, it is the duty as well as the right of the President to allow the Bill to proceed.

Mr. PRESIDENT: No argument is necessary on this point. That point is conceded.

Mr. HAMIDUL HUQ CHOWDHURY: If we are satisfied that a *prima facie* case has been made out that this Legislature, on a first impression, has the right to legislate on the subject, then if anybody challenges either the whole Bill or any particular provision of it, there is a constituted authority for finally deciding it in accordance with law. Now, Sir, so far as the Bill is concerned, let us see in how many places the bank has come into the picture and where the provisions of this Bill expressly deal with banks. Subject to correction, I submit that it is in clause 2(*13*) only that exception has been made in favour of certain banks. To those banks this Act shall not apply which were scheduled on the 1st day of January, 1939.

Dr. RADHA KUMUD MOOKERJI: On a point of order, Sir. Is the Deputy President entitled to speak from any seat?

Mr. PRESIDENT: Order, order. Members are expected to address the House from the seats allotted to them. In future, if any member happens to rise from a seat not assigned to him, he will not be called by the Chair to speak.

Mr. SHRISH CHANDRA CHAKRAVERTI: Let him come back to his seat, Sir.

Mr. HAMIDUL HUQ CHOWDHURY: Is it necessary that I should go back to my seat?

Mr. PRESIDENT: Not this time. But in future I shall strictly observe this rule.

Mr. HAMIDUL HUQ CHOWDHURY: I am sorry for this and I am grateful to my friend Dr. Mookerji for pointing it out. Therefore, what we find is this. It is the scheduled banks, banks scheduled before the 1st of January, 1939, to which this Act shall not apply.

Then, there are a number of banks which shall be "notified banks" and they are proposed to be included by the Local Government in a list. Beyond this, the present Bill has got nothing to do with banks. As I hinted yesterday, this Bill only deals with money-lending and money-lenders. It shall apply to those money-lenders to whom or against whom the Legislature has a right to pass a law and if any particular money-lender pleads in a court of law that he belongs to a class of money-lenders which has been kept outside the purview of this Legislature, he will be able to put forward that defence and the Court is bound to give him the relief to which he may be entitled. We are only discussing in a vacuum. We do not know whether this law, if passed, will be applicable to banks which are corporations first of all and which come under item No. 27. It may not apply to banks. Supposing, it comes within the Federal List; then banks which come within the Federal List are excluded from the jurisdiction of the Provincial Government by the rule-making power. Then, how does the question come in? Government is not supposed to legislate on matters over which the Provincial Legislature has no power. Therefore, except this clause, there is no other clause in the Bill which expressly says that the provisions of this Bill shall apply to a bank which comes within item number so and so of the Federal List. Unless you do so, you cannot raise this point and argue a case entirely on a theoretical basis. Supposing, there are provisions——

Mr. PRESIDENT: This point was conceded.

Mr. HAMIDUL HUQ CHOWDHURY: Therefore, Sir, I submit that the point that has been raised does not apply so far as this Bill is concerned.

Dr. RADHA KUMUD MOOKERJI: Then omit 13(*d*).

Mr. HAMIDUL HUQ CHOWDRURY: My learned friend's argument seems to be that directly there is no provision made for dealing with banks but indirectly there is exclusion in favour of certain banks from the operation of this Bill. Therefore, as you are going to exclude some, by implication you are going to include others. I submit, Sir, that will be presuming something which is unwarranted. We can and should accept that the Government which will be drafting the rules under this provision, will do so according to law. They will see that the banks over which the Provincial Legislature has got no power——

Mr. PRESIDENT: I have understood your point. The honourable member will remember the legal maxim—*Expressio unius est exclusio alterius.*

Mr. HAMIDUL HUQ CHOWDHURY: Yes, Sir, I will take up other points just now.

So, we are not going to attack or criticise it unless we have found that the Local Government has not acted in accordance with law.

Dr. RADHA KUMUD MOOKERJI: Do you guarantee good behaviour on the part of Government?

Mr. HAMIDUL HUQ CHOWDHURY: It does not require any guarantee. It is always of good behaviour.

As regards the other point, namely, whether the business of banking includes money-lending, many of my friends have already dealt with it. Most of us remember the growth of banking institutions. We know that banks in England originally grew from the institution system, namely, that people found difficulty in keeping their money——

Mr. PRESIDENT: Do you agree with the view taken by the Hon'ble Mr. Suhrawardy that banking may include money-lending but that it is not the *sine qua non* in the case of banks?

Mr. HAMIDUL HUQ CHOWDHURY: That is what I said yesterday.

What I was pointing out is that your view that there is overlapping——

Mr. PRESIDENT: That was my tentative view. You may argue on that point.

Mr. HAMIDUL HUQ CHOWDHURY: It may happen that a particular field of legislation is so vast that if it is liberally applied, it includes the entire field. If we find that a part of the subject-matter of that legislation has been specifically mentioned for some other purposes, then it may be argued that on a general view there is overlapping and since there is overlapping, it comes within the jurisdiction of the superior Legislature. But this argument will not hold good.

Mr. PRESIDENT: I have further said that apparent overlapping may not be real overlapping.

Mr. HAMIDUL HUQ CHOWDHURY: The Hon'ble Mr. Justice Jayakar has remarked, in the report of the Federal Court referred to, that Excise duty is a tax on consumption and may be collected from

the time the commodity is produced or manufactured up to the time it reaches the consumer including the sale stage; so that tax on sale would come under entry No. 45 of List 1. If it is——

Mr. PRESIDENT: Order, order. Is it necessary to read all these? I have told the House that the general principles are agreed upon. It is a well-known principle of law that if the Statute is clear, any number of precedents will not vary the clear words of the Statute. I refer you to sub-clause (*3*) of section 100 of the Government of India Act as regards overlapping. If there is overlapping, you cannot get out of sub-clause (*3*).

Mr. HAMIDUL HUQ CHOWDHURY: I have further said and it has been accepted as a provision of good law, namely, the rule of construction that where there is a general provision and where there is overlapping——

Mr. PRESIDENT: That point has also been argued by Khan Bahadur Naziruddin Ahmad. It is no use repeating the same point. Mr. Kamini Kumar Dutta also referred to it.

Mr. HAMIDUL HUQ CHOWDHURY: I agree with Mr. Dutta that it is necessary to see that there should be no overlapping. But even if there is overlapping, the special provision should be read as a proviso curtailing the general power.

Mr. E. C. ORMOND: Sir, the remarks which I propose to make are not a speech on the matter as a party question. I need hardly emphasise that point. Again, I am not speaking on the merits of the Bill.

Mr. PRESIDENT: That is not the point at issue. You are now to speak only on the point of order raised.

Mr. E. C. ORMOND: I wish only to emphasise that point and I would also emphasise the other point as you, Sir, have asked us to give you our views to the best of our ability. We would not be doing you any useful service nor would we be giving the Hon'ble Minister any useful help if we gave an incomplete or inaccurate advice according to our lights.

Before coming to the other part of the matter, with regard to the observation that was made by the Deputy President, I understood his point to be that it would be quite open to a Provincial Legislature to pass a Bill in relation to money-lending assuming that money-lending was a part of the business of a bank or banking business. But that

Bill automatically would not be applied to banks because of the Government of India Act. According to the last speaker, if I understood his point aright, it would be quite unnecessary to put in any *exceptions* such as appear in section 2 (*d*)—excepting scheduled banks and notified banks. Those exceptions would be quite immaterial and unnecessary because this Provincial Legislature could pass the Bill in its native form against money-lenders lending money at rates of interest higher than a certain amount and that Bill would, in fact, be applied to banks because of the effect of the Government of India Act on that Bill.

Now, Sir, the view that I take is that it is not the business of the Provincial Legislature to pass Bills which are, on the face of them *ultra vires* and to depend merely on some interpretation of the Government of India Act to give them a restricted meaning.

Mr. PRESIDENT: As I understand the position, in this Bill there is nothing to show whether the banks come under the purview of this legislation or not. It will be left to the individual banker to take the matter to the Court and get an interpretation from it. Here, we say that it will not apply to certain persons. On the contrary, it is not suggested that it applies to banks.

Mr. E. C. ORMOND: Sir, with great respect I may say that I entirely agree with the observations which you have just now made.

Mr. HAMIDUL HUQ CHOWDHURY: I have only one question to put to him. There may be a scheduled bank which is not a corporation.

Mr. E. C. ORMOND: I don't follow that. I think that it is not possible. A bank has to be a corporation under the Indian Companies Act. But I am not dealing with that hypothetical case.

Mr. NARESH NATH MOOKERJEE: On a point of information, Sir. Supposing sub-section (*1*) and section (*d*) are omitted and if any case is instituted in the High Court against the bank for lending money in contravention of the rules as prescribed in this Bill, what would be the view the Court would hold? Would they penalise the bank or would they acquit the bank? I think that it is a pertinent question. I hope Mr. Ormond will kindly answer it.

Mr. E. C. ORMOND: Subject to what you have to say on this aspect of the matter, Sir, I have three things to say on that point. One is that it is not good legislation to pass laws in a form which have a patent ambiguity on the face of them and that if in fact the

Provincial Legislature has not the constitutional power to pass certain laws, then it should make a definite and express exception in the Bill excluding those spheres of legislation from the operation of the Bill for which it has no power. As you pointed out, Sir, in this particular Bill, that first line of approach has not been adopted. The Bill does not stand in its naked form imposing obligations on money-lenders as a whole and then leaving it, as my hon'ble friend Mr. Mookerjee has suggested, to the Federal Court, or the High Court or some other Court to decide whether that Act has an operation on banks although it does not say so. As you pertinently pointed out, in this Bill there are exceptions in the case of scheduled and notified banks and that the middle course appears to be the worst of all the three courses. Either the Bill should be in its naked form and left to the Court to decide the points at issue. But I for myself am entirely against such a policy because it is merely encouraging litigation by passing legislation in a form which is on the face of it ambiguous and difficult. The other course would be if we come to the conclusion that lending by banks is a matter outside the scope of this Council. Then it should contain express exception to the operation of the Bill, in the Bill itself, so that it does not apply to any of these banks which are considered according to the Government of India Act to be outside the power of this Council. The middle course adopted in this Bill is, as I say, the worst of the three, because it purports to make, one exception without making the other exception. It is the worst of the three assuming that the view that might be taken is that the Provincial Legislature has not the power to pass legislation restricting the rates of interest on money-lending by banks.

The other remark which occurred to me to make in regard to the last interruption is that the definition in the Bill of a money-lender refers again to a person. We had this question of what is the meaning of the word "person" debated upon in this House before. It is quite clear that the Bengal General Clauses Act applies. The definition "A person" applies to the corporation and there is nothing whatever to exclude from the definition of a person, a corporate bank or a company bank. Therefore, on the face of it, apart from the exception and apart from any legal restriction that may be imposed upon it, the Bill on its wording would certainly apply to all banks.

Now, Sir, I proceed to the main topic. You will have noticed that the objection that has been made to the powers of the Provincial Legislature is sought to be based on two different points. One is that the Bill is *ultra vires* because it impinges on the sphere of legislation with respect to promissory notes. That is the item which is mentioned in the Federal List, item No. 28. The other is that it impinges on the sphere of legislation which is reserved for the exclusive operation of the Federal Legislature in relation to banking business. That is

the item which is contained in the Federal List, item No. 38. From what you said, I really gathered that you did not want to have a discussion at the moment in relation to the question as to how far the operation of this Bill might be *ultra vires* in regard to impinging on the sphere of promissory notes.

Mr. PRESIDENT: I shall take up that point as soon as this is over.

Mr. E. C. ORMOND: Therefore, I need not refer to that at the moment. Proceeding to the question in relation to item No. 38, the expression "banking business", I understand from the reading I have been able to give of section 100 of the Government of India Act and also from the remarks that have fallen from you and previous speakers, that if this Bill aims at legislating with respect to "banking business" or to the "conduct of banking business", that being an item which is expressly mentioned in the Federal List, there is no more to be said about the subject. The Federal Legislature has the power to legislate and the Provincial Legislature has not the power to legislate. If this is legislation with respect to the conduct of banking business, that is the particular point, I would wish to make with regard to what I propose to say in a moment, that appears to be the crucial test. The item is mentioned in the list as "banking, that is to say, the conduct of banking business by corporations" and so on. In section 100, the wording is with regard to the Federal Legislature or the Provincial Legislature with respect to any of the matters mentioned in the list. Then, as you, Sir, pointed out, the effect of section 100 is that if this is legislation with respect to the conduct of banking business, the Federal Legislature has power to legislate. Then, it follows that if the Central Legislature has power to legislate on that subject, the Provincial Legislature has not. It is of no interest really to consider whether it is within the item in the Provincial List. For the present, discussion on the question is whether it is within the item in the Federal List. Then, we have heard about the principles of construction which are going to be applied to this matter. I am not going to take up the time of the House by referring to that. I am assuming, as I know will be the case, that you are going to apply the principles which have been laid down in the recent cases—Mada Nagaratnam *versus* Puvvada Seshayya reported in the Indian Law Reports 1939 Madras, page 151, and the recent Federal court case which is reported, apart from Federal Court reports, in the current Weekly Notes in the end of certain current instalments of that volume. I am assuming that it is necessary for us to reconcile these two expressions—banking on the one hand which is in the Federal List and money-lenders on the other hand which is in the Provincial List;

because it is quite clear that the two lists are intended to be exclusive and if one cannot attach some meaning to both sets of phrases, so that they can be exclusive, one phrase or the other becomes meaningless. It is a primary principle of law that, as far as possible, one does not attach meaning to words in an Act of Parliament or an Act of the Legislature which are meaningless and if a certain construction is put upon the matter, the result would be that one would put meaning on money-lenders which would be meaningless. I suggest that it is not necessary to put any meaning on the word "money-lender" which is meaningless so as to give it some sphere to itself which is not within the sphere of banking. But that is not a matter with which we are concerned at the moment. I suggest that the only matter with which we are concerned is whether lending of money by banks might be regarded as the conduct of banking business within item No. 38.

Mr. PRESIDENT: If I accept your interpretation, the reconciliation is not difficult. If we say that money-lending by individuals is within the jurisdiction of Provincial Legislature while money-lending by banking corporation would be an exclusive Federal Subject, reconciliation is possible but I desire to hear you on the point as to whether money-lending by a banking corporation should be an exclusive Federal matter.

Mr. E. C. ORMOND: With regard to that, one can notice that item No. 27 which is within the Provincial Legislative List does not mention money-lending but mentions money-lenders, so that it is difficult——

Mr. PRESIDENT: Money-lending and money-lenders are both mentioned.

Mr. E. C. ORMOND: I beg your pardon. Although it is difficult to draw the distinction, there must be, it seems to me, some distinction drawn between money-lending and money-lenders on the one hand and banking on the other hand. But that is not to say that lending of money by a bank is not banking. The matter comes into rather a fine point, but there must be a difference; otherwise it is impossible to have these two phrases in the same Act. One way of reconciling them, as you pointed out, is that the terms money-lending and money-lenders apply to private individuals or partnership firms. I doubt if that is the correct view which will eventually hold the field although it is difficult to say what precisely is the difference. Another distinction is possible that money-lending is done at a higher rate of interest than banking or—I put this with some hesitation but it may be the

right distinction—that banking includes the lending of money and the term "money-lending and money-lenders" refers to the lending of money by all persons who are not banks. That is a possible distinction which would be in line with the two distinctions which are made in the two items with regard to corporations. I am afraid, I cannot give you more assistance on the point at the moment, because I shall take up more time of the House if I try to do so. There is no doubt that some distinction between the two terms, in order to reconcile them, has to be made, but for the moment it appears to me that the point that is necessary for us to discuss is whether this Bill by restricting the rate of interest on the lending of money by banks is a matter within item 38 of the Federal List. To do that, one has to consider the effect of the Bill.

Now, the first point is—I do not wish to repeat what I said yesterday, but it realtes to the same topic—the first preliminary observation I wish to make is that when the Bill becomes law, four different kinds of banking have to be considered. As mentioned by me yesterday, section 4 of the Indian Companies Act is not illegal and it is quite legal for banking to be done by partnership business or individuals. There are two kinds of banks, namely, company banks and non-company banks. Again, out of the company banks, you get three groups of banks. You get scheduled company banks; you get notified company banks and you get a third group of company banks which is neither scheduled nor notified. You also have the other fourth group, the non-company banks, that is, banks where banking is done by partnership firms or Hindu joint family firms or by private individuals. Therefore, Sir, there are four classes of banks to be considered in determining as to what effect this Bill will have on their business. Now, the general effect of the Bill undoubtedly is that its operation is excluded from the scheduled company banks. Its operation is similarly excluded from the notified company banks, but its operation is not excluded from those company banks which are neither scheduled nor notified. Its operation is also not excluded from those non-company banks which are owned and managed by partnership firms, Hindu joint families or private individuals. With regard to the fourth class, there is no branch on which it can be said that the legislation restricting the rate of interest on which money will be lent by private bankers, partnership banks, Hindu joint or individual owned banks is *ultra vires* of the local Legislature, because the item which refers to these expressly refers to the conduct of banks by corporation. Therefore, in regard to the matter in so far as this Bill restricts the rate of interest on money lent by private banks which are not company banks, no one can possibly suggest that it is *ultra vires*. The next question is whether the Bill is *intra vires* in so far as it purports to restrict the rate of interest for the lending of money by

company banks which are outside the lists of scheduled banks and notified banks. I would suggest that is immaterial to see what was sought to be done by an honourable member that the term "bank" in this Bill has only reference to particular banks or that exceptions in this Bill refer to some banks, and the operation of the Bill is to be understood by what is left from the exceptions. I do not want to take up much time of the House, but it is a matter which I feel is important in regard to the operation of the Bill. If I can put it on the basis of analogy, the legal operation of this Bill is the same in principle as when a man buys a piece of cloth for putting patterns on it, he gets or cuts his piece and then according to one process or many different processes he re-sews the cloth to prevent the dye from fading. Then he cuts out the pattern out of the grease leaving patches over the red dye or whatever it is that will operate, and the net result is that he dyes his cloth on the part of the cloth where he has not put the grease. In the same way operate the exceptions of this Bill. Legally speaking, the Bill operates on all money-lenders, and as I have said already, there is nothing in the definition itself to indicate that banks are excluded. Then, there are various exceptions, e.g., different kinds of insurance companies as well as banks. Thus, the net operation of the Bill is on those people and in those spheres which are left when the exceptions do not apply. Therefore, to say that bank is defined in the Bill as meaning a corporation and so on, has no bearing on the point, because the operation of the Bill is on those bodies which are not within the definition of a bank. There are apparently two definitions of "banking business". One is the narrow definition which is mentioned in the earlier part of section 277(*f*) of the Indian Companies Act where it is defined to mean a business which carries on banking as its principal business. These are the words—the acceptance of deposit of money on current account or otherwise subject to withdrawal by cheque, draft or order. That is the definition which is sought to be imposed by what is now only a Bill and which is not an Act and which was referred to in yesterday's edition of the "Statesman", and that also, I understand, is the definition which is referred to in Hart's "Law on Banking" where it is said that that was the original conception of banking. That is a narrow definition of banking in its original sense. In another passage in the same book, viz., Hart's "Law on Banking", Volume II (current edition), page 697—unfortunately I have not been able to keep the book though I had it the other day—it is indicated very clearly, to the best of my recollection, that the lending of money to a customer by a bank is the reverse of banking business proper in its narrow sense. I do not think the word "narrow" is actually used. I think the words used are that it is the reverse of banking business proper. There is, therefore, a certain amount of scope for the view that banking business only refers to the use of the term in its restricted sense. But that is not the use of the term as it

is used by commercial men or by bankers themselves, and we have heard already the forceful point put yesterday that all banks practically without exception, except bankers' banks such as the Reserve Bank of India and such other banks, would without exception go out of business, if it was not possible for them to do something with their money. Customer is the lender and the bank borrower. They obtain their money from the customers. Customers are to lend money to the banks; but if they do not do something with the money they get from the customers, they cannot make profits and give to the customers the money on which they have to live; then I think it will be no exaggeration to say that they will go out of business.

The arguments and the points in favour of adopting this narrow view, namely, that banking business simply means receiving money from customers where a customer is the lender and not the bank and paying it out against cheques, are those statements in the well-known books on banking, i.e., what is banking proper, and if it should be decided that the Government of India Act is using the words in that restricted sense referring only to banking business proper, then of course the lending of money by banks is outside that, and this will not be *ultra vires*.

Then, there is the other argument that it is because of the framework of section 277(*f*) of the Indian Companies Act because that section makes it necessary that a company in order to fall within the definition of the Indian Companies Act to be such a corporation must have as its principal business this bankig in its restricted sense. Therefore the argument is that that is the principle business of a bank and all the other matters which are mentioned later on as being business which a bank may legally carry on are not banking business proper. But having given the matter the best consideration that I can and subject to what you, Sir, may say, and other honourable members may say hereafter, it appears to me that very little assistance can be got from referring to this section in the Indian Companies Act, because this is how that section operates. First it says that a bank must be a corporation which has the principal business of a particular sort. It defines that business as banking business under the restricted sense of the term. Then it says that a bank may legally carry on all businesses which are mentioned in sub-sections (*1*) to (*17*). Then it implies that there are obviously other businesses outside those sub-sections which it is not legal for a bank to carry on. Therefore one gets three kinds of business, viz., principal business, leagal business and the excluded business which is not legal and not possible for a bank to carry on. The argument on the one side is to the effect that because the section refers to a particular kind of business as the principal business of banking, therefore it must be banking business. I have already said that there are many matters in the second class,

namely, legal business which certainly to my mind and certainly to the mind and certainly to the mind of my commercial friends and bankers are what they consider, to be banking business, e.g., such matters as buying and selling of foreign only two. There are innumerable others. Therefore it appears to me that it merely leads to a fallacy to suggest that the first part of the section contains the test in his matter. Then, the other people who argue on the other side would say that banking business is not restricted to the principal business as mentioned in the Indian Companies Act but includes all legitimate business of a bank under the Indian Companies Act. That appears to me to lead to a fallacy equally, because one finds in that list the business of acting as agents to Government or local authorities or other person or persons buying and selling land. It would be absurd to say that because this Council brought in a Bill relating to land in Bengal which it is fully authorised to do under the provincial list, because buying and selling is included in that list as legitimate and legal business by a bank under the Indian Companies Act, therefore it was trenching on the sphere of item 38 and therefore it would not be within the power of this Legislature, for instance, to pass a Bill of this nature.

That would be absurd and therefore the only conclusion I can come to is this. One must go away from the definition in the Indian Companies Act for the purpose of interpreting what is banking business under the Government of India Act and there is nothing startling in doing that because the definition in the Indian Companies Act is merely imposed for the purpose of deciding what kinds of corporations shall be banks for the purposes of that Act. They do not say that these corporations will be banks for the purposes of the Government of India Act or any other Act. It is simply of the nature that people who are banks under that section are to fulfil the obligations mentioned in the Companies Act.

Then, Sir, I may mention the points which have at first occurred to me in favour of taking the narrow view of the matter. It may be said that the item in the Central Government list refers to banking business and does not refer to bankers and therefore it may be said that a banker may do pure banking business and also may legitimately, as he can under the Indian Companies Act, do other business which is not banking. It may be said that this lending of money is a legitimate business but is not banking business. I mention that so that you may consider the matter. The arguments on the other side for giving the expression in the Government of India Act a wider interpretation so as to include the lending of money are those to which I have already referred. The ordinary conception of a man in the street like myself or a commercial man or a banker himself is that a bank cannot exist without lending money and that therefore it is part of the business of a banker to lend money. Therefore, if you restrict his rates of

interest in regard to lending of money, you are passing legislation with respect to the conduct of banking business. You have already mentioned the definition in Stroud's Dictionary in regard to the interpretation of a similar conflict of expressions under the Canadian constitution. You have already mentioned the House of Lords case which is cited, as I see in that dictionary itself, in relation to that definition where it was held that banking business would embrace all the legitimate business of a banker. That appears to be perfectly all right but does not get us very much further in regard to the present difficulty. The question is whether the lending of money by a banker comes within that term or not and I have already said that I would not myself see my way to adopt that definition that it would embrace all the legitimate business of a banker. If it is intended to include all these matters mentioned in sub-sections (*1*) to (*17*) of the Indian Companies Act, I cannot say that buying and selling of land is banking business. Therefore, there must be a gloss put upon that expression "all the legitimate business of a banker". It is simply another way of saying, all the business which, commercially speaking and in banking circles and according to the popular and current use of language, is banking business.

Rai Sahib JATINDRA MOHAN SEN: On a point of information, Sir. My hon'ble friend was mentioning that under section 277(F) of the Indian Companies Act there are certain businesses which a banking corporation can do, one of them being buying and selling of land. There is no buying and selling of land as such—only buying and selling of land for the purpose of the company and not buying and selling of land when such is not necessary for the bank.

Mr. E. C. ORMOND: I don't see how a person can buy and sell any land which does not belong to him. It must be for the purposes of the bank. I see under sub-section (*8*) managing, selling and reselling of property——

Mr. PRESIDENT: That is not a very important point. The banks may have to do many things incidentally which may be legal. You have rightly said that money-lending by a banking corporation is one of its principal functions.

Mr. E. C. ORMOND: Very well. I will not say anything more on that matter. I would say only this that I do not consider that it matters whether the lending of money is the principal business of banking, provided that it is part of the banking business. There may be 101 businesses which a banking company may legitimately do under the Indian Companies Act—all these matters are mentioned in sub-sections (*1*) to (*17*). There may be 101 of them. Assuming that you consider

that 9 of these items constitute banking business, if money-lending is one of these 9 items, then it will be banking business to my mind and as such outside the scope of the powers of the Provincial Legislature. Therefore, I do not wish to be splitting hairs. I wish only to make the point that I do not consider, as far as I can understand, the problem that it would be the proper test to say that. The question is whether the lending of money is the principal business of a bank. Provided it is one of the items of banking business—there may be 8 other items—even if it is the 9th, that will be banking business. I need not say any more about it. The conclusion would appear to be that the lending of money certainly, in the view of bankers themselves, is banking business and I have mentioned to you the question how far that section 277(F) of the Indian Companies Act may be used as a test. My suggestion is that it is not a useful test nor the final test. Therefore, Sir, it would certainly appear that the lending of money, generally speaking, is a part of the business of a bank. That would not necessarily, it seems to me, conclude the point. If this Bill is fixing a maximum rate of interest of 30 per cent. it might, I apprehend, with considerable force be said that no bank ever lends money at as high a rate of interest as that and therefore it might be said that the restriction on the rate of interest imposed by this Bill is not a restriction on banking business because banking business does not come up to the mark mentioned therein.

Mr. PRESIDENT: It is going into the merits of the case.

Mr. E. C. ORMOND: I did not intend to go.

Mr. PRESIDENT: We are only considering now the point of order.

Mr. E. C. ORMOND: I think I have failed to make myself understood. I did not intend to go into the merits. As you, Sir, know this Bill, as it stands, fixes the maximum rate of interest at a certain figure —8 and 10.

Mr. PRESIDENT: Order, order. Nobody knows it. Please confine yourself to this particular point.

Mr. E. C. ORMOND: That raises a certain difficulty. I do not know whether it is possible to consider whether a part of the Bill is *ultra vires* without seeing the Bill. That reminds me that on a previous occasion I made the suggestion that the Government might assist us and might save our time and the province's money by referring the matter to His Excellency the Viceroy, with the request that he might obtain the opinion of the Federal Court. I think it is section 213.

Mr. PRESIDENT: Order, order. I have come across cases in Canada which were referred to the Federal Court for the interpretation of the Statute. But our difficulty here is that under section 213 of the Government of India Act, it is only the Governor-General who can refer the question and unless a convention is established gradually in the local Legislatures upon such important matters to postpone consideration pending reference by the Governor-General to the Federal Tribunal, it is not possible to do so. We have no such convention at present.

The Hon'ble Mr. H. S. SUHRAWARDY: That is a way out, but we would not like to take it because no such convention has been established. I don't think that it would help us by appealing to the Governor-General to refer the Bill to the Federal Court.

Mr. E. C. ORMOND: I have mentioned the only point which has occured to me, which may assist you, Sir, in respect of the question on which you have asked our view. But as this has come up almost for the first time in this House, I would like to have your indulgence to make a few remarks with regard to the implications of section 213. After discussing with some of my legal friends, I find that there appears to be an idea that section 213 could not be invoked until the Bill had been passed into law, because the suggestion is that there cannot be any question of law until there is a law. But the wording of the section is, "If at any time it appears to the Governor-General that a question of law has arisen or is likely to arise, etc., etc." Therefore, on the grammatical wording of the matter, there seems to be no exclusion of the possibility of opinion being given on a Bill before it becomes a law. But it may be that the Federal Court will take a different view on that. It may be that they may say that they cannot give an opinion on a matter until it has become a law. All I would say in regard to that is that that would surely not be a sufficient reason to prevent a courageous Government, such as we have here, from making a request that His Excellency the Viceroy might obtain the opinion of the Federal Court. At the worst, all that could happen is that the Federal Court instead of giving their opinion would send the papers back saying "We cannot give an opinion because there is no question of law" and then at least the Government would have shown us that they had been careful and not faint-hearted in trying to discover before introducing the Bill whether it was *ultra vires* or not. Speaking for myself, although I wish to say, what is hardly necessary to state, that I have never an antagonism either to the Hon'ble Minister himself—my feelings are very much the opposite—or to the Government, but I do feel, speaking for myself, that it is not a satisfactory position that a Bill should be introduced and sat on for weeks in another place and sat on for days in this House before the question whether this Provincial Legislature has power to pass a Bill has been

decided. We have not been informed that Government ever obtained the opinion of the Advocate-General on this Bill as it came out from the Select Committee in this amended form. All that we have is the statement of the Hon'ble Minister himself in his Statement of Objects and Reasons, a bare statement, a perfectly clear and unambiguous statement, that in his view legislation in regard to the lending of money by banks would be *ultra vires*. We have not been informed of the reasons which led the Hon'ble Minister to change his mind.

I only mention this matter in order to find out if there is a way out to prevent this waste of money and this waste of time. Supposing this Bill should be held to be *ultra vires*, then there is this waste of time and money and if it is not *ultra vires*, the whole of this discussion is a waste of time and money. In either case, it is gross waste of time and money. Therefore, Sir, it appears to me that the position is not entirely satisfactory. In the case of other legislations which might be brought in, it would be desirable in the interests of the public purse and of the individual members' time if the question whether the Bill that was proposed to be introduced was *ultra vires* should be considered adequately before the matter was placed before the House. Now, the Hon'ble Minister has, I expect, obtained the Advocate-General's opinon. We have not been informed whether he has got the opinion of the Advocate-General. We do not find him here; possibly he has not been invited to come here. But what I am suggesting is that his opinion might have been taken when this Bill came out of the Committee. It is hardly necessary to remind the House that in the original Bill there was no provision for application of this Bill to banks. The Hon'ble Minister in his Statement of Objects and Reasons said that it would be *ultra vires* to apply the proposed Bill to banks and then when it went to the Select Committee, it was made to apply to banks and that was the first occasion when the question whether this Bill is *ultra vires* or not arose.

Now, Sir, that being the position, it would appear that there is room for considerable doubt whether this matter, that is to say, the imposition of a restrictive rate of interest on company banks which are outside the notified list and outside the scheduled list, whether that restriction in law is likely to be held by the Federal Court to be *ultra vires* or not. The Federal Court will perhaps hold, on the principle of reconciling these two items, that this is within the power of this House. Then the question arises—what will you care to do in this state of things and what will this House care to do. I apprehend that this is a point of order whether the Bill is *ultra vires* or not and therefore it is not a point on which the House could be asked to vote. It appears to me, subject to what you may think, that it would be unconstitutional for a House to vote on a point of law, namely, whether the Bill is *ultra vires* or not. Therefore, Sir, if that is right, it must be a matter——a point of order—for you, Sir, to decide.

Now, I apprehend that if there is this doubt which appears quite clear from the discussion which has taken place whether this is *ultra vires* or not, you, Sir, would probably not care to give a ruling in anticipation of the Federal Court. It might lead to this result. You, Sir, after giving the matter your best attention—a matter which is such a moot point—might decide that it is *ultra vires* and then, Sir, you might rule it out. Thereafter, either on some other provincial legislation or on a future Bill, the points may come in the form of a case before the Federal Court and the Federal Court might also bring in other principles which possibly we have not fully considered to-day, possibly the principle of the different aspects—you, Sir, have considered that—but possibly on some other principle, the Federal Court on such a moot point as this might hold a different view and then, Sir, I apprehend that you, as our President, might be feeling some difficulty. Of course, I have no idea whether the matter strikes you in the same way but that is how the matter strikes me. The matter being as much a matter of doubt as it is and the Bill having gone so far forward as it has done, it might be rash to anticipate a ruling of the Federal Court and therefore, Sir, if you are asking my view at all, I would respectfully suggest that this is not a matter which is so clear that you would rule the Bill out of order. (Cheers from the Coalition Benches.) Assuming that any part of the Bill was out of order, it will be only the exceptions that are out of order and it will not be that the exceptions in their existence were out of order. But it would be that the exceptions would be out of order not because they were included in the Bill but because they were not made wide enough. That would be the position. Any amendment to put the Bill in order would be to extend the scope of the exceptions. I do not know if there are amendments of that type. The amendments would be in such a form as would exclude all banks from the operation of this Bill. That is a matter which, Sir, you would consider yourself.

Mr. PRESIDENT: There would be no difficulty about that. If the Chair is convinced that the particular sub-clause is out of order, then that particular clause will not be put to the House.

Mr. E. C. ORMOND: That is exceedingly puzzling me—what clauses of the Bill will not be put to vote. Because, the clauses of the Bill relating to banks exclude certain banks but not others from the Bill and if these clauses are omitted, the net result would be that the Bill would apply to all banks. But that is not a matter on which I need trouble you. That is all I can suggest.

Mr. W. B. G. LAIDLAW: Sir. I shall be very brief indeed. When discussing banking business I would like to look at it from another angle and that is the meaning of money-lending. Money-lending to

my mind has an impression of advertisement; it is different altogether from lending of money. In the definition of "bank" in section 277 (*f*) of the Indian Companies Act "lending of money" are the words referred to and not "money-lending". I see degrees of meaning,—a usurer, a money-lender who is not a usurer and somebody who is prepared to invest money in the best way possible and who is not actually a money-lender. I think that there are at least four degrees. The question is which of those degrees is applicable here. You may say that somebody may lend money and not actually be a money-lender, just as you say that a doctor may drive a car and yet be not called a car-driver. (Laughter.) I would like to impress upon the House that there is a difference between money-lending and lending of or advancing money which are the actual words used in the definition in section 277 (*f*) of the Indian Companies Act.

Now I come to bank. What is it that a bank does, I would define a bank as an establishment for the custody of money. As a matter of fact, there are banks in this city, there is one exchange bank which pays no interest whatsoever on the money which it has got in custody; and more than that, a portion of the money is not lent but is actually in the bank's vaults. So, it does not follow that an institution for the custody of money is necessarily a money-lender. What is of importance is: what is the proportion of money that remains unrealised in the cellar. Supposing that there is an advance against jute, it is a different thing altogether from money-lending. From what I understand of "money-lender", I do not think that a bank is a money-lender.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I am thankful to Mr. Laidlaw for his interpretation of a bank and his clear enunciation that it is not necessary that a bank should lend money. The principal object of a bank is that it should receive deposits and pay interest to those who deposit money. If that is fulfilled, then it is a bank. If that is not fulfilled, then all the subsidiary forms of business in which a corporation may be engaged will not make it a bank.

Mr. PRESIDENT: It is banking and not banks. Have you got any new point to suggest?

The Hon'ble Mr. H. S. SUHRAWARDY: After hearing Mr. Ormond's arguments, I thought—all's well that ends well. On some points, I found myself in disagreement with him but he struck the right note at the end, namely, that in view of the discussion that has taken place, whether we should anticipate——

Mr. PRESIDENT: That is also not a point at issue. I would request you if you could help me in this. I find in the judgment of the Hon'ble Mr. Justice Sulaiman delivered in the case relating to the

Central Provinces and Berar Act XIV of 1938, an observation about the point made by Khan Bahadur Naziruddin Ahmad and the Deputy President. It is this: "Nor am I able to apply the principle that where a particular power comes within both of two mutually exclusive jurisdictions, as in Canada, it should be regarded as an exception to the general rule". Now, an exception falls within and not outside a general provision. The essence of the principle is that a particular exception restricts a general provision, although covered by it. In the Indian Constitution, there is a definite provision in the case of an overlapping, and where such an overlapping is inevitable, the general power of the Centre would override even a particular power of a Province.

The Hon'ble Mr. H. S. SUHRAWARDY: That cannot be helped. I am going to that a bit later.

Mr PRESIDENT: I have already heard a good deal about the point of order. I have stated the difficulties that I feel on which, if you like, you may enlighten me. Much time has already been spent on it.

The Hon'ble Mr. H. S. SUHRAWARDY: But I do hope, you will allow me to have my say, so that although you are feeling so much difficulty about it, you will not anticipate the order of the Federal Court but will either leave it to the House or will allow this Bill to go through. That is a thing——

Mr. PRESIDENT: I shall never anticipate any judgment of any Court. The Chair will never care what will happen to his decision afterwards. A judgment of the High Court may not be upheld by the Privy Council but that does not always mean that the Lower Court was wrong and the Higher Court was right. I shall conscientiously go through all the arguments advanced and after applying mind to them, if I think it necessary to consult the House, I shall do so. On that point there need be no discussion at all. Leave it entirely to me. You may try to help me on the point that has been raised.

The Hon'ble Mr. H. S. SUHRAWARDY: With regard to the point that you have raised, I do beg to point out that you, Sir, as President of this House, as the guardian of the privileges of this House, are not in the position of a Lower Court whose decision may be upset by a Higher Court, or the Federal Court. You are not in that position at all. When I say that you perhaps may be inclined not to anticipate the decision of the Federal Court, it is not from this point of view that you may give a decision which may not be upheld by the Federal Court. In all probability, if I may say so, your decision may be quite correct, and there may not be any the least doubt that the Federal Court will

uphold your decision. But the question is this that the Legislature has got its rights, powers and privileges. We should not come to a decision upon a point, which should really be the exclusive privilege of the Federal Court. That is what I submit, Sir.

On the question of overlapping, I would like to say that you have been good enough to refer on several occasions to sub-section (3) of section 100. And so in the case of overlapping—the words of this sub-section are quite clear—the clause should operate. As soon as you come to a decision that there is overlapping, the Federal power must operate.

Now, in order to come to a decision whether there is overlapping or not, you have got to apply certain principles of construction and it is only in the application of those principles that the doubt arises. We have heard from all sides of the House's arguments of various kinds, and that has really created the occasion when one can legitimately say that there is a reasonable doubt or a reasonable ground which should operate in the mind of the Chair in coming to a decision on the point. You may say that as far as the Canadian or the Australian laws are concerned, they are on a different footing. And yet in that Madras case where the question of promissory notes came up for consideration, the same arguments were advanced, namely, to what extent the Provincial Legislature was encroaching on the province or the jurisdiction of the Central Legislature regarding negotiable instruments. The same question arose and there the High Court referred to the Canadian law on the point. They did not take up the view that all that they had to decide whether there was overlapping or not and therefore the Canadian rulings were not to be considered. No, the same point came up, and the same laws were in question; the same sections were considered and in their application to overlapping and reconciliation the Canadian rulings were considered. The point is this: in considering whether there is overlapping or not, it is not a question as to whether money-lending by banks overlaps the power under the head money-lending which has been given to the Provincial Legislature. Overlapping will only raise where, as they put it, the true nature and character of the legislation are beyond the express powers and not when it incidentally affects matters which are outside the authorised field. If money-lending by a bank overlaps the general power of money-lending given to the Provincial Legislature, that is not overlapping. Overlapping will arise only when the true nature of our legislation is to control banking business. If the true nature and character of our legislation is to control banking business, then we are encroaching upon the powers of the Federal Legislature. But if the true nature and character of the legislation is not to control banking business but money-lending, then we are not encroaching on it; and therefore if we exercise this principle, then we will really understand what overlapping really means, and be able to reconcile the two apparently conflicting powers.

Practically all the arguments have been on this question. Let me put it like this. It is said that it should not be argued that money-lending by a bank is not banking, at the same time it should not be argued that money-lending by a bank is not money-lending; it is money-lending. But that is not the criterion. The criterion is not whether money-lending by a bank is money-lending or not, and in order to see whether it encroaches upon the federal sphere or not we have got to look to the purpose of this Act. You have been pleased to quote one passage, namely, "Legislation must not under the guise of dealing with one matter in fact encroached upon the forbidden field".

Mr. PRESIDENT: I have seen it and I have read it several times. If there is any new point, you may make it.

The Hon'ble Mr. H. S. SUHRAWARDY: In order to find out whether there is overlapping or not, the real purpose of the legislation must be considered, and if we do that, I think the position is quite clear and there is no overlapping at all. That is my submission. I would therefore request you, Sir, to consider the question from this point of view that the matter is of great importance. If my friends on the opposite side have got any doubt—they are the persons who have advised us to refer the Bill to the Federal Court for an opinion—my humble submission is that after the Bill has been passed, it is up to them to go to the Federal Court and it is not for us to go to the Federal Court to find out whether this is *intra vires* or *ultra vires* of the local Legislature.

Mr. PRESIDENT: The House now stands adjourned for 10 minutes for prayer.

(*After adjournment.*)

Mr. PRESIDENT: Mr. Sarker, you have raised a further point about promissory notes.

Rai Sahib INDU BHUSAN SARKER: Both promissory notes and banking business.

Mr. PRESIDENT: As regards banking business, there has been sufficient discussion. Have you any new point to make on banking business?

Rai Sahib INDU BHUSAN SARKER: Probably there may not be any new point. I have something to say in my own way. I have raised this point of order and therefore I should like to say something in my own way in support of it.

Mr. PRESIDENT: Many members have supported you. Have you any new points to make?

Rai Sahib INDU BHUSAN SARKER: I have also some suggestions to make to the House as regards the point of order.

Mr. PRESIDENT: On a point of order no suggestions can be accepted by the Chair. Have you any new point to make?

Rai Sahib INDU BHUSAN SARKER: Yes, Sir. The principal point which I would like to impress upon the House is that a bank must lend money to be a bank. It is not correct to say that the only business of bank is the acceptance of deposits of money subject to the withdrawal by cheques, etc.; but the very acceptance implies that the amount so taken must be invested; otherwise no bank can subsist.

Mr. PRESIDENT: That argument has been advanced more than once.

Rai Sahib INDU BHUSAN SARKER: A bank is not a charitable business where some patriots combine for benefiting humanity, but it is a business where people wish to benefit themselves by taking remuneration, directors' fee and dividend; but also wish to benefit the public at large by paying interests for the money invested. So I repeat, Sir, that lending of money is an integral part of a bank's function as observed by Dr. Mookerji. Money-lending is the very "life breath" of a bank. I would very much like to know how any bank can subsist even for a day without making profit and the fundamental and primary conception of banking is connected with money-lending. I am rather surprised to hear that the Legislature is not the proper authority to consider the question of validity or otherwise of a piece of legislation. Are we entitled to pass a law which is within the jurisdiction of Federal Legislature? If we pass any such law, shall we not be exposing ourselves to ridicule and ignorance of law? In my humble opinion, Sir, we should see that the law we pass is valid and is not found fault with by any one. In this connection may I point out to you, Sir, that a reference might be made to the Government of India under section 213 of the Government of India Act requesting them to obtain the opinion of the Federal Court on this point.

Mr. PRESIDENT: That point has already been made by Mr. Ormond.

Rai Sahib INDU BHUSAN SARKER: But my point is this. The Hon'ble Mr. Suhrawardy has said that there is no convention. Let us at least create a convention on this point and see to it that our labour, money and time are not wasted.

Mr. PRESIDENT: All these points have been very clearly put by Mr. Ormond just a few minutes ago. It is no use repeating the same.

Rai Sahib INDU BHUSAN SARKER: Yesterday the Hon'ble Minister in charge of this Bill made a further point of the primary function of a bank. If a bank has money-lending as its primary object, then it should not be taken out of the scope of the Bill, for the very definition of banking company under section 277(F) of the Indian Companies Act lays down that money lending should not be its principal business. But money-lending is the very second item in the list of businesses of banking corporations in sub-sections (*1*) and (*3*). Then again in section 277(G) money-lending is not relegated to the position of subsidiary business but a primary and principal business along with taking of deposits, withdrawal by cheques, etc. Scheduled banks not existing on December 31, 1939, sought to be regulated by this Bill will be corporations and banking companies within the meaning of the items "corporation" and "banking" in the Federal Legislature List, items 33 and 38, in spite of their money-lending business, i.e., advancing money on loans with or without security. I doubt that the regulation of that business is within the powers of the Council. Of course whether we can reconcile these things as regards overlapping under section 100 of the Government of India Act, that is another matter. In my opinion, Sir, money-lending and investing money on interest is an integral part of the money-lending affair and that it is within the purview of the Federal Legislatrue and not of the Provincial Legislature, and in section 100 it has been made distinctly clear that in case of over-lapping it is the Central Legislature which has power and not the Provincial Legislature. It has already been said—I need not repeat all those points—by the previous speaker, Mr. Ormond who has elaborately dealt with every thing connected with banking, namely, lending or advancing money either with or without security, etc., and he also dealt with exchange, promissory notes, etc. All these fall within the category of functions of a banking company, and my submission is that it is an integral and not a subsidiary part of the business. So when it is an integral part, I submit, Sir, that it falls under the Federal List, and there cannot be any doubt about that. One thing is that if we legislate, will it not be prudent on our part if we exclude these two intricate and doubtful issues, namely, bank and promissory notes from the present money-lenders Bill? Then I think it will be very prudent on our part; otherwise we shall not know what will be the consequence if the Federal Court holds otherwise, in case any one goes

there. One thing, Sir, to which I would like to draw the attention of the House is that it has been published in the newspapers on the 7th January, 1940, that proposals for an Indian Bank Act based on the general objection of safeguarding the interests of the depositors have been submitted by the Reserve Bank and circulated by the Government of India among interested parties who have been asked to communicate their criticisms and views by April next. I say, Sir, that already the Reserve Bank has taken up the matter as to what kind of a bank should be included within the definition of "bank". So, I think it will be prudent on our part to exclude the most intricate, doubtful and ambiguous issues such as banks and promissory notes from the purview of the Money-lenders Bill. By so doing, I think, the doubt as to its overlapping under sections 100 and 107 of the Government of India Act where it is clearly stated that the Federal Legislature has and the Provincial Legislature has not the power to make laws can be removed.

In this view of the matter, Sir, I think it will not be competent on our part to hazard this legislation and that it will be better to exclude them from the scope of the Bill.

As regards promissory notes, the same argument applies. I do not know whether it will be discussed to-day or to-morrow.

Mr. PRESIDENT: It is going to be discussed to-day.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, promissory notes have been specifically mentioned in item No. 28 of the exclusive Federal List.

Sir, as regards promissory notes, I may say that this Bill in no way affects the powers of the Centre to legislate as regards the validity, enforceability and negotiability of promissory notes. All that this Bill does is to bring within the scope of its provisions promissory notes in so far as they relate to money-lending. That, in my view, is within the competence of the Provincial Legislature.

Dr. RADHA KUMUD MOOKERJI: Sir, I am sorry to intervene in this debate on the point of order. At the outset I must explain clearly that in whatever I say I do not represent the view of any party, nor is it to be understood that I am opposing the passing——.

Mr. PRESIDENT: Order, order. In the discussion of a point of order, the merit or otherwise of the Bill as a whole does not arise. We are now applying our mind to the question as to whether it will be within our power to enact such a measure. In this matter, the question of speaking on behalf of a party cannot arise. These questions should be looked into dispassionately, and not from the point of view of any party. If we pass a legislation and that is subsequently set at naught

by a Court of competent jurisdiction holding that it was *ultra vires* of the Provincial Legislature, not only will the parties suffer, public confidence in the sanctity of the law will also be shaken. It is in the interest of Government to ascertain definitely whether we are within our bounds. I do not understand why the question should arise in the mind of any member that they are speaking on behalf of a party on a point of order.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, are we allowing Dr. Mookerji to raise a second point of order during the discussion of the first point of order?

Mr. PRESIDENT: No, we are not discussing a second point of order.

Khan Bahadur NAZIRUDDIN AHMAD: But Dr. Mookerji rose on a point of order.

Dr. RADHA KUMUD MOOKERJI: No, I rose to speak on promissory notes.

Khan Bahadur NAZIRUDDIN AHMAD: I am sorry, Sir, I made a mistake.

Mr. PRESIDENT: The Chair is grateful to the honourable members who are taking part in this discussion. Really I wanted to get enlightenment. I have in my own way studied the question as much as possible. I am taking note of the observations now being made by honourable members, and I hope that they will look at these questions from a legal and constitutional point of view and not from party point of view.

Dr. RADHA KUMUD MOOKERJI: Sir, I thank you very much for the salutary ruling you have given as to the angle of vision from which we should approach the study of these intricate legal questions, and I hope your own ruling will be appreciated by some members who are too much wedded to party politics here. (Cries of "Hear, hear" from the Congress Benches.)

Khan Bahadur NAZIRUDDIN AHMAD: We strongly object to this remark. Dr. Mookerji wants to satisfy both parties. (Laughter.)

Dr. RADHA KUMUD MOOKERJI: Speaking, Sir, merely on the legal aspect of the matter, I am afraid that Government is deliberately seeking loopholes by means of which it can level an attack on

the constitution that has emerged as a result of the Government of India Act. Even if there is any measure that lends itself to so much doubt and controversy I should think that Government should be the last person to embark upon doubtful legislation. The other day the Prime Minister was naturally taking great credit to himself that he is fortified by the overwhelming votes of his party. If so, they can afford to give the benefit of doubt to the Legislature by standing up more strictly for the rights and obligations that are conferred upon the Provincial Legislature so liberally by the Government of India Act. I do not see any reason why they should try to stretch the limits of authority granted to the Provincial Legislature for the sake of certain other purpose which they have in view. I do not say that that purpose is instigated or inspired by considerations of party politics. That is another matter, but I feel that they are not showing any consideration for the vital powers given by the constitution on the Legislature.

Now, coming to the point of promissory notes, item 28 of the seventh schedule expressly bars out promissory notes as such. The Hon'ble Minister has just now put before us a sort of a difficult puzzle which I cannot explain. He said that promissory notes need not imply any kind of lending transaction. Well, in that case I should say that he means by a promissory note a note given to a person or promised to be given to a person by way of gift. If he means that, gifts may be excluded; certainly promissory notes are promissory notes, and you cannot get away from a certain aspect of promissory notes which the Provincial Legislature can separate for its own treatment leaving out the other aspects of promissory notes which are to be reserved for central treatment. I cannot follow him in this hair-splitting distinction which implies no difference. I, therefore, think that the case of promissory notes is extremely clear, and there should be no doubt whatsoever about the supposed separation of many aspects which a promissory note cannotes. Now, the Government of India deals with notes on which it is written: "I promise to pay on demand in cash such and such amount and so on"—just as is written on a note, and similarly I do not know how exactly on earth Government is so exercising its ingenuity in order to find a distinction where no distinction is meant in law. The law clearly states cheques, bills of exchange, promissory notes and other like instruments. I do not know whether this phrase will cover also *hundis*, because "other like instruments" not only stop with promissory notes but it extends to all instruments so as to include in this item all negotiable instruments. So, I do not know how for the purpose of provincial treatment you can separate one aspect of the promissory note from the other aspects. The Hon'ble Minister says that there are aspects of promissory notes which have got nothing to do with money-lending. I cannot follow him here. If he is prepared to give us more light, I shall be able to follow him better. As a matter of fact, my point is——

Mr. PRESIDENT: You are referring to the definition of promissory notes, namely, that it is primarily an instrument in writing of assignment of unconditional undertaking to pay a sum of money on the order of a certain person. As an instrument, there is no question of money lending in this definition.

Dr. RADHA KUMUD MOOKERJI: Sir, I was simply going into the root of the so-called transactions which apparently perhaps smack of money-lending, but a promissory note indicates a transaction. It is based on some transaction, and this transaction—whether it is for the purpose of a particular policy I need not discuss—I do think is based upon a commercial transaction by which money is to pass from one person to another or from one party to another. And therefore rightly speaking the law has not tried to define promissory notes in any way and it does not give any scope to that fine sense of distinction which the Hon'ble Minister in charge is proposing to apply in order to separate certain aspects of promissory notes for the purpose of provincial treatment. I say to the Government "Well, even if you have some case, why take the benefit of doubt? Why not give the benefit of the doubt to the Constitution itself and rule out all doubtful measures of legislation". That would be better serving the cause of constitutional progress in this country. I do not like that the Government should come forward every day with this kind of doubtful piece of legislation by trying to stretch the rights of the Provincial Legislature as far as possible for certain purposes which they have so much in their view and for which they are proposing hasty pieces of legislation one after another.

Mr. PRESIDENT: May I take it that promissory notes need not necessarily be money-lending?

Dr. RADHA KUMUD MOOKERJI: Since there is express money-lending under a separate item, I say this is potential money-lending. If I am scientific enough, a promissory note does not mean actual transaction by which a sum of money is lent. It is a promise to lend money. It is a promise of accommodation and practically therefore it can not be separated. If it is a transaction it must be described as a transaction based upon money-lending although it may not be direct money-lending. Of course as one gentleman here has said there may be degrees of money-lending and I think perhaps cheques and bills of exchange, promissory notes are so many instruments whereby the economic life of the country finds its expression and development. So, in that sense the authors of the Government of India Act are perfectly right in leaving bare without any definition promissory notes as being simply the subject-matter of central legislation, a subject which does not lend itself by any kind of subterfuge or stretch of imagination to be a provincial subject.

Mr. E. C. ORMOND: Mr. President, Sir, we have heard what Dr. Mookerji thinks of the matter and that is certainly the view of the matter which many people—I may be pardoned if I may say so—take at first sight. At first sight, it certainly would appear that this Bill by restricting the right by which a person may lend money, if that money, if that money is lent with a promissory note being signed, is having the effect that the promissory note must either be torn up or rewritten, and that according to Dr. Mookerji would amount to legislation with respect to promissory notes. I for the reason which I will state as briefly as possible in a moment beg to take the opposite view, and that in spite of the view which at first sight appears in this case, it is not the correct view. When the matter is looked into and the principle of reconciliation is applied, it will be found that this Bill is not *ultra vires* in regard to the provision that it restricts the rate of interest when money is lent on a promissory note. To take an illustrative case, at first sight it certainly appears to be this that a person lends money to a private individual which is not a commercial loan, say, at 12 per cent. per annum. The borrower signs and hands over a promissory note worded, "On demand I promise to pay Rs. 10,000 with interest at 12 per cent. per annum". Possibly he deposits security of Government stock or jewellery. Then he fails to pay. The lender sues the borrower for the amount plus interest at 12 per cent. The borrower relies on this Bill. He says according to the Bengal Money-lenders Act as it would be then if passed into law of 1939, on this transaction where I have furnished a security I am only liable to pay 8 per cent. and not 12 per cent. Therefore kindly tear up the promissory note or permit me to rewrite it or at any rate reread it as "On demand I promise to pay Rs. 10,000 with interest at 8 per cent." That would be the effect of the Bill no doubt. The lender then answers,—I need hardly stretch the point, but in regard to the question of promissory notes the objection on the ground of *ultra vires* is not confined to money-lending by a banker; this objection, of course, applies to money lent by anybody and not a banker,—then the lender answers "No, you cannot re-read this Bill" as 8 per cent. That Bengal Money-lenders Act is a dead letter which is *ultra vires*. Then the case goes to the Federal Court. The question there will be this—will that Court be able to hold that the Bengal Money-lenders Act was not a law with respect to item 28, that is to say, that it was not legislation with respect to promissory notes? Now, as Dr. Mookerji evidently considers, at first sight it certainly appears that because that promissory note has got to be re-written and re-read so as to include a provision for interest at 8 per cent. instead of 12 per cent., this would be an Act with respect to promissory note. That is a view of the matter which one may be pardoned to take at first sight. But I am confident, Sir, that any court of law would take the opposite after giving the matter careful consideration in the light of the principle of the construction of such an

Act as the Government of India and in the light of decided cases. I will not take up your time by referring to those principles. You have already mentinoed that you do not wish to refer to those principles. If there are two items, one in the Federal List, viz., cheques, promissory notes and the like, and one in the Provincial List, such as money-lending and money-lenders, it is an essential principle of law that those two items which are intended to be exclusive must be reconciled if there is any possible means known to language to do so. The very same question in essence came up in the Madras Case to which you have already referred. That case is reported in the Indian Law Reports, 1939, at page 159—Mada Nagarathnam *versus* Puvvada Seshayya, where the question was whether the Agricultural Debtors Act in Madras was an infringement on the exclusive power of the Central Legislature. The main question there was whether it related to another item in the Federal List to which I need not refer now. But the question whether it also infringed on the item of promissory notes was actually referred to in that case at page 174 of this digest. The matter does not rest there. I need not read the passage because you have read it. The passage appears at page 174, but the net result of it appears to be that in reconciling these two items it is necessary to consider the aspect theory as it was put in the Federal Court because of the two items. In truth the proper construction of that item No. 28 of he Federal List is that it reserves for the Federal Legislature the exclusive right to legislate with respect to cheques, bills of exchange, promissory notes and other like instruments when they are considered in the aspect of their negotiations and their negotiability. It reserves to the Federal Legislature the exclusive right to pass all the provisions on the lines of those provisions which are now contained in the Indian Negotiable Instruments Act; that is to say, definitions as to what is a promissory note, what is a cheque, what is a bill of exchange, provisions in regard to the respective liabilities of the drawer or the drawee or the endorser or the endorsee, provisions as regards the necessity for presenting for payment or dishonour, provisions in regard to notice of dishonour and so on and so forth, which are contained in the Indian Negotiable Instruments Act. That appears to be the view which has been taken in Madras.

Mr. PRESIDENT: The hon'ble member knows that the Negotiable Instruments Act also provides for interest. If there happens to be no mention of interest, it is calculated at the rate of 6 per cent.

Mr. E. C. ORMOND: That is not a provision which is repugnant to the present Bill. It merely says that if there is no rate of interest the rate would be 6 per cent. That would not, I would respectfully suggest, be repugnant to any Bill which lays down any specific rate of interest.

Mr. PRESIDENT: Will you please refer to section 79 where it is said "when interest at a specified rate is expressly made payable on a promissory note or bill of exchange, interest shall be calculated at the rate specified on the amount of the principal money due from the date of the instrument, until tender or realization of such amount, or until such date after the institution of a suit to recover such amount as the Court directs." Don't you think it would be interfering with that section?

Mr. E. C. ORMOND: At present I fail to see how it can be interfering with that section. Following, Sir, what you have just now read —I have not got a copy with me—the rights prescribed are not the rights prescribed in the instrument.

Mr. PRESIDENT: But now you are prescribing that it should not exceed a particular rate.

Mr. E. C. ORMOND: The rates are then prescribed by the instrument plus some legislation. If that legislation is entitled to scale down debts as they held in Madras Full Bench decision of three Judges including the Chief Justice of Madras, that it was within the power of the Provincial Legislature to scale down agricultural debts. That is all I can say which may be of any assistance to you.

Mr. PRESIDENT: That is not a fundamental characteristic of the promissory note. The negotiability is the fundamental characteristic.

Mr. E. C. ORMOND: The whole commercial law, it is desirable, should be uniform all over India as to their negotiability, their method of negotiations and the rights—to take another matter—of the holder, the rights of the holder in due course for the value and different rights of the people who take those instruments having regard to their capacity of negotiability.

Mr. PRESIDENT: That really means transferability by delivery. If there is anything in this legislation that bars or interferes with the transferability, will it then, in your opinion, infringe the right of the Federal Legislature?

Mr. E. C. ORMOND: If it interfered with those rights, if it was legislation with regard to cheques, promissory notes, bills of exchange and other like instruments, in that aspect of the matter, I suppose it would be not for this Provincial Legislature to pass such a legislation; but I fail to see anything at present in this Bill which comes within that.

Mr. PRESIDENT: May I refer you to clause 28 of the Bill.

Mr. E. C. ORMOND: That relates, of course, to the assignment of the debt and does not affect the main principle in regard to the assignment of the Negotiable Instruments.

Mr. PRESIDENT: Will it be a hindrance to transferability?

Mr. E. C. ORMOND: As far as I can see, although I have not previously considered the matter, my answer is that there does not appear to be any hindrance to the transferability or to the main principles of the Negotiable Instruments Act. The Negotiable Instruments Act is not merely concerned with transferability although mainly concerned with it.

Mr. PRESIDENT: That is the reason why I asked you in the first instance whether you consider transferability to be the fundamental characteristic of a promissory note.

Mr. E. C. ORMOND: Yes, Sir, that is certainly so. But I would like to guard myself to this extent. I would like to say that quite apart from the Negotiable Instruments Act there may be—I cannot think of anything at the present moment—an aspect of legislation which relates to bills of exchange, cheques and promissory notes—an aspect of the matter which would be part of the exclusive sphere of the Central Government, but as far as I can arrive at any conclusion, this Bill does not seem to impinge on that particular aspect.

With regard to the other aspect, viz., assignment of debts that is a situation which frequently comes to pass. There may be both a debt in itself and there may be a negotiable instrument which has been entered into after the debt and it may be that a person has certain rights, so that he can sue on the negotiable instrument. He may have an alternative, additional or lesser right—but different rights—on which he can sue on the original contract or debt. That difference does not ordinarily arise, because the practice is to look at the negotiable instrument. In regard to foreign judgments it sometimes happens like that occasionally when the law of the foreign country is different; and the point occasionally arises that a person finds himself entitled to sue on the original contract when he has lost his right on the negotiable instrument. Therefore, Sir, it is evidently clear that the matters are separate. Sir, I do not pretend to consider that matter better but in answer to your question I may say that it does not seem to impinge on the aspect of item 28 as it is intended to be referred to in the Government of India Act. For that reason in regard to this point,

the view I personally take is that it is correct to say that the restriction of the rate of interest on a debt, even though that debt may be by a promissory note is not *ultra vires* of the Provincial Legislature.

Mr. HAMIDUL HUQ CHOWDHURY: As a matter of fact, item No. 28 does not say that.

Mr. PRESIDENT: Because that can be cured by obtaining the permission of the Governor-General.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I submit that clause 28 of the Bill will not contravene item 28—Promissory notes—in List I. Clause 28 does not at all affect the rights of assignment of promissory notes. It simply refers to assignment and lays down certain minor consequences. It does not affect the terms or the conditions of assignment as laid down in any Central Act but it simply says that where a debt is assigned, a notice has to be given and information of it has to be given to certain parties interested in the loan. It does not prejudicially affect in the least the right or the conditions of assignment. That is the simple answer to the objection.

With regard to the rate of interest, that is, laying down the rate of interest at 6 per cent. in the absence of any contract to the contrary—my submission is that the appropriate provision of the Negotiable Instrument Act was passed before the passing of the present Government of India Act. We are not now concerned with how matters stood before the new Government of India Act came into force. Now, Schedule II of the Government of India Act will control the situation. The position that "money-lenders and money-lending" is a provincial subject is a recent creation of the Government of India Act. Under the Government of India Act, if any law is passed by the province on the subject, that will be legal. The standard of 6 per cent. interest in the Central Act—the Negotiable Instruments Act—will yield to the new provincial power as money-lenders and money-lending is now exclusively a provincial subject 'since 1st April, 1937." So, the prior existence of a clause as to the interest will not have prospective effect after the Government of India Act came into force. That seems to me——

Dr. RADHA KUMUD MOOKERJI: It is still the law.

Khan Bahadur NAZIRUDDIN AHMAD: That was and is still the law but, the subject now being provincial, we are now changing it. On and from 1st April, 1937, we have a right to legislate on interest and we are only doing that. Further legislation with regard to interest now belongs to the province. The past has nothing to do with it.

We have to think of the present and the future. With regard to the Negotiable Instruments Act, that is, "the promissory notes", I have got another aspect of the matter to submit. A promissory note may be considered in two aspects—one that the "promissory note" as embodying terms of the loan and the other aspect is that there is a document which is evidence of the loan and terms. One is the substantive transaction, the other is mere evidence of the transaction. So far as the document is concerned, it will perhaps be guided by the Federal legislation. So far as the loan or the amount or the rate of interest is concerned, that will be a Provincial subject. I think this is the way of reconciling these two apparently contradictory items.

Mr. PRESIDENT: Apart from it, as has been suggested in the Madras case, that section 107 cures it. Even if it falls under the concurrent list, repugnancy can be avoided by having consent of the Governor-General. So, the defect is not vital at this stage.

Khan Bahadur NAZIRUDDIN AHMAD: I respectfully agree. Subsequent assent will cure the defect, if any. Now, Sir, Schedules I and II, that is, the competing items in these two lists will have to be reconciled as if there is a dispute between two honourable friends and not the dispute between two implacable enemies who cannot and will not make reasonable concessions. So these two items will also have to be reconciled like that. It is, to use a homely illustration, just like the reconciliation between a husband and his wife who have quarrelled.

Dr. RADHA KUMUD MOOKERJEE: Do you propose reference to the higher authorities for settlement of this quarrel?

Khan Bahadur NAZIRUDDIN AHMAD: No, I should like to settle the differences in the House and ignore seeming hostilities and contradictions. If the husband who is the superior power, concedes, everything will be all right.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, may I just direct the attention of the House to another aspect of this problem? I cannot do better than refer to the Madras case which you know very well, and there is no point in repeating the arguments advanced in that case by Chief Justice Lech, but apart from that what does our Bill purport to do. If we look at it from this aspect that the Bill does not restrict the rate at which a person will lend money then we do not encroach upon promissory notes in any manner. During argument, it appears to me, it has been taken for granted that this Bill restricts the rate of interest at which a person may lend money. This Bill does nothing

of the kind. A money-lender may lend at the rate of 30, 40 or 100 per cent. We do not penalise him; we do not send him to jail. We do not say that that contract is illegal, but all that we say is that our courts shall not pass a decree for an amount greater than 8 or 10 per cent. That is what we do. Promissory notes are not affected as such. Apart from the question that we are not affecting the negotiability of promissory notes or making or endorsing or any of those items which affect promissory notes, we are not going to affect even the legality of those promissory notes. We do not say that you shall make a promissory note only for 8 or 10 per cent. All that our courts are required to do is that they shall not give a decree for a higher amount. If you have got a debtor who is very acquiescent and you lend money to him at 20 per cent. and for years together you take interest from him at that rate and he has executed a promissory note, he cannot recover the excess from you under the Act. That promissory note is not illegal or void, but if you sue him on that then our courts shall not give a decree for a higher amount than that allowed by the Act.

Dr. RADHA KUMUD MOOKERJI: You are interfering with the freedom of promissory notes.

The Hon'ble Mr. H. S. SUHRAWARDY: There is no question of freedom of promissory notes. There is no such item which comes under the Federal List. Section 79 requires that interest is to be calculated at a certain specified rate. It has been held that courts may exercise their discretion and may give a decree for a lesser rate. Again for instance promissory notes have been affected by other laws, viz., the Usurious Loans Act of 1918, and the Contract Act. The court has got an absolute discretion to give a degree for a lesser amount than declared by the promissory note.

Dr. RADHA KUMUD MOOKERJI: Then why this law?

The Hon'ble Mr. H. S. SUHRAWARDY: We are fettering the discretion of the court and we are saying that the court shall not pass a decree for a higher amount and I submit that this in no way encroaches upon the province of the Federal List. You will see if you look at the various sections that it has been very carefully drafted from that point of view without encroaching upon any of the documents and without making any document void.

Mr. PRESIDENT: This is the time for second prayer. Adjournment for prayer should be for fifteen minutes.

Mr. HAMIDUL HUQ CHOWDHURY: Ten minutes will do.

Mr. PRESIDENT: Khan Bahadur M. Abdul Karim, do you want to meet after prayer?

Khan Bahadur M. ABDUL KARIM: No, Sir, to-morrow.

Mr. H. C. A. HUNTER: We also do not like to continue to-day.

Mr. PRESIDENT: Order, order. The Council stands adjourned till 2-15 p.m. on Wednesday.

Adjournment.

The Council then adjourned till 2-15 p.m., on Wednesday, the 10th January, 1940.

Members absent.

The following members were absent from the meeting held on the 9th January, 1940:—

(1) Rai Bahadur Keshab Chandra Banerjee.

(2) Mr. Humayun Reza Chowdhury.

(3) Mr. Narendra Chandra Datta.

(4) Khan Bahadur Alhaj Khwaja Muhammad Esmail.

(5) Alhaj Khan Bahadur Shaikh Muhammad Jan.

(6) Rai Bahadur Satis Chandra Mukherjee.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Wednesday, the 10th January, 1940, at 2-15 p.m. being the twenty-second day of the Third Session, pursuant to section 62(2) (a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Realisation of rent by certificate.

132. Mr. NUR AHMED: (a) Will the Hon'ble Minister in charge of the Revenue Department be pleased to state if it is a fact that the period of two years during which the realisation of rent by certificate procedure was stopped is about to expire?

(b) If so, does the Government intend to reintroduce the certificate procedure?

(c) If so, has the attention of the Government been drawn to the remarks of Mr. Stuart, Special Officer, in his report regarding *khas mahal* in Bengal?

(d) If so, does the Government intend to suspend the certificate procedure for ever and to adopt the suggestions of Mr. Stuart for realisation of rents by *punya* system and honorary tahsildar system? If not, why not?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (a) Yes.

(b) and (d) Government has not yet arrived at any decision on these points.

(c) Does not arise.

The supply of the copy of the order of punishment to a punished clerk.

133. Khan Bahadur NAZIRUDDIN AHMED (on behalf of Khan Bahadur Ataur Rahman): With reference to the supplenmentary question arising out of the Hon'ble Minister's reply to question No. 64(b) of the 12th December, 1939, when the Hon'ble Minister wanted a notice for stating the rule under which a clerk is

debarred from getting a copy of the order of punishment passed on him by a Collector, will the Hon'ble Minister in charge of the Revenue Department be pleased to state the rule which is referred to by him in this answer?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The supplementary question referred to related to the supply of copies of orders affecting the prospect and promotion of a clerk and not to any order of punishment passed on him.

If a clerk is departmentally punished or ordered to retire, copies of such orders, if applied for by him, are to be given free of cost under rule 335 of the Bengal Records Manual, 1928. Of the two applications for copies rejected, the first related to the Collector's order refusing to make a remark in a clerk's service book and the second related to his order regarding a temporary arrangement made in connection with a leave vacancy. As none of these cases came under this rule, the clerks are not entitled to have a copy of the orders in question.

In accordance with rule 334 (*1*) of the Bengal Records Manual, 1928, in the case of orders other than judicial concerning an officer personally, only the substance of the decision is to be communicated to him. In the first case, the substance of the order was duly communicated to the applicant as it concerned him personally but in the second case this was not done as the order did not concern the applicant personally.

Accommodation of students in the Bengal Veterinary College.

134. Rai Sahib INDU BHUSAN SARKER: (*a*) Will the Hon'ble Minister in charge of the Agriculture Department be pleased to state whether it is compulsory for students of the Bengal Veterinary College to reside in the College Hostel? If so, why?

(*b*) Is the Hon'ble Minister aware that many gentlemen of Calcutta cannot admit their boys in the Bengal Veterinary College on the ground of inability to bear hostel charges?

(*c*) Is the Hon'ble Minister aware that there is no such compulsion in the Medical College or any of such other institutions in Calcutta?

(*d*) Does the Hon'ble Minister propose to modify this rule and make it optional for students to reside in the hostel?

The Hon'ble Sir BIJOY PROSAD SINGH ROY (on behalf of the Hon'ble Mr. Tamizuddin Khan): (*a*) Yes, except that the Principal has discretion to exempt particular students from residing in the hostel in special cases in which (*i*) accommodation is not available in the hostels, or (*ii*) the students are too poor to bear the hostel charges but can secure free or cheaper board and lodging within reasonable distance from the College. The students of this college have to

attend hospital practice and class lectures from 8 a.m. till 4 p.m. daily and to perform night duty with the House Surgeon in the different wards of the Hospital. It is very difficult for the students to take full advantage of the practical training and class lectures unless they live in the hostels.

(*b*) I am not aware of any such instance.

(*c*) There is no such restriction in the Medical College. I do not know about other institutions.

(*d*) I am prepared to examine the question as to whether any further relaxation of the rules regarding compulsory residence is feasible without detriment to the requirements of the course of training.

Rai Sahib INDU BHUSAN SARKAR: Arising out of answer (*b*), if it is a fact that the students of this college have to attend hospital and class lectures from 8 a.m. to 4 p.m. and to perform night duty with the House Surgeon, will the Hon'ble Minister be pleased to state whether students who live near about the college may safely remain at home and from there attend college without detriment to class lectures and other requirements?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: If it is possible for them to do so, it is all right; otherwise not.

Rai Sahib INDU BHUSAN SARKAR: With regard to answer (*b*), will the Hon'ble Minister be pleased to state if any relaxation is possible, so far as compulsory residence is concerned?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The matter is going to be examined.

Notice of Motion for Circulation of the Bengal Food Adulteration Act, 1919.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: With your permission, Sir, I want to give notice of an amendment to a non-official Bill. I have the honour to give you notice that I desire to move in the current session of the Bengal Legislative Council the following amendment to Mr. Nur Ahmed, M.L.C.'s motion that his Bill for the amendment of the Bengal Food Adulteration Act, 1919, be referred to a Select Committee, viz.:—

that the Bill be re-circulated for the purpose of eliciting further opinion thereon by the 30th September, 1940.

The Bengal Money-lenders Bill, 1939.

Mr. PRESIDENT: The House will now resume further consideration of the Bengal Money-lenders Bill, 1939.

Clause 15.

Clause 15 stand part of the Bill.

Rai Sahib INDU BHUSAN SARKAR: Sir, I beg to move that in clause 15 of the Bill,—

(*i*) the words "has been convicted of an offence specified in the schedule in this Act, or" appearing in lines 2 and 3, be omitted; and

(*ii*) the words "conviction or" in lines 4 and 5, be deleted.

This is merely a consequential amendment. If we do not agree to the system of registration and licensing of money-lenders, the question of contravention of the terms of licence and conviction thereof does not arise at all. But if the licences are issued to the money-lenders permitting them to carry on their business, the question of conviction for non-compliance with the terms of the licence must remain. But the word "conviction" for any offence does not necessarily imply an imprisonment. It might, however, be contended that penalty for breach of any rule should in no case extend to rigorous imprisonment. The money-lender who infringes any of the terms of his licence may be disqualified for holding a licence for a reasonable period, but punishments need not be more rigorous than that. In those cases where the rural money-lenders do not act according to the rules, a fine may be inflicted or something like that, but imprisonment should not be imposed, especially rigorous imprisonment.

Mr. PRESIDENT: Amendment moved: that in clause 15 of the Bill,—

(*i*) the words "has been convicted of an offence specified in the schedule to this Act, or" appearing in lines 2 and 3, be omitted; and

(*ii*) the words "conviction or" in lines 4 and 5, be deleted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose the amendment. I do not understand the point. If that part of the clause is deleted, I do not know what will be the meaning of the section. It would be meaningless. So, the section should remain as it is. Therefore, I oppose it.

Rai Sahib INDU BHUSAN SARKAR: Sir, we cannot follow the Hon'ble Minister. The microphone does not work and his voice also does not reach us.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, the section runs thus:—"Where it is required to be proved for the purposes of this Act that any person has been convicted of an offence specified in the schedule to this Act or has been disqualified by an order of a court for holding a licence, such conviction or order may be proved." That is all. How a certain conviction or order is to be proved? That is the subject-matter of this clause.

If my friend's amendment is accepted, what will be the meaning? It will be practically meaningless. So, I oppose it.

Mr. PRESIDENT: The question before the House is: that in clause 15 of the Bill,—

(*i*) the words "has been convicted of an offence specified in the schedule to this Act, or" appearing in lines 2 and 3, be omitted; and

(*ii*) the words "conviction or" in lines 4 and 5, be deleted.

(The amendment was negatived.)

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move that in clause 15 of the Bill, for the small letter "s" in the word "schedule" appearing in line 3, a capital "S" be substituted.

This is really a proof correction and it is a necessary correction.

Mr. PRESIDENT: Amendment moved: that in clause 15 of the Bill, for the small letter "s" in the word "schedule" appearing in line 3, a capital "S" be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that in clause 15 of the Bill, for the small letter "s" in the word "schedule" appearing in line 3, a capital "s" be substituted.

(The amendment was agreed to.)

Mr. MESBAHUDDIN AHMED: Sir, I beg to move that in sub-clause (*a*) of clause 15 of the Bill, for the words "orders were" in line 4, the words "order was" be substituted.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*a*) of clause 15 of the Bill, for the words "orders were" in line 4, the words "order was" be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*a*) of clause 15 of the Bill, for the words "orders were" in line 4, the words "order was" be substituted.

(The amendment was agreed to.)

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move that in sub-clause (*b*) of clause 15 of the Bill, for the word "inflicted" appearing in line 3, the word "undergone" be substituted.

Sir, I submit that this is a more appropriate word.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*b*) of clause 15 of the Bill, for the word "inflicted" appearing in line 3, the word "undergone" be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*b*) of clause 15 of the Bill, for the word "inflicted" appearing in line 3, the word "undergone" be substituted.

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is that clause 15, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 16.

Mr. PRESIDENT: Clause 16 stand part of the Bill.

Mr. RANAJIT PAL CHOUDHURY: Sir, I formally move that in sub-clause (*1*)(*b*) of clause 16 of the Bill, all the words beginning with "or any person" in line 1, and ending with "money-lending business" in line 3, be omitted.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*)(*b*) of clause 16 of the Bill, all the words beginning with "or any person" in line 1, and ending with "money-lending business" in line 3, be omitted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose it.

Mr. KAMINI KUMAR DUTTA: Sir, in support of this amendment I wish to say that certainly we agree with the provision contained in this sub-clause. No license should be granted to those persons who, according to the principle laid down in this Bill, are found to be undesirable. But this clause seems to me to be too stringent, for here not only the applicant is penalised but any person responsible or proposed to be responsible for the management of the applicant's money-lending business is disqualified for holding the licence. Instances may occur in which the person responsible for the business of a particular applicant may commit some act or acts contrary to the terms of the licence for which the applicant may not be liable at all and it may be even against his wish. So, it would rather be extending the penal provision of the Bill by including in the rule of disqualification even the case of an agent. I would, therefore, appeal to the Hon'ble Minister to consider the position whether the rule is not rather too stringent.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*)(*b*) of clause 16 of the Bill, all the words beginning with "or any person" in line 1, and ending with "money-lending business" in line 3, be omitted.

(The amendment was negatived.)

Mr. NUR AHMED: Sir, I beg to move that in sub-clause (*1*) of clause 16 of the Bill, after paragraph (*b*), the following new paragraph be added, namely:—

"(*c*) if the applicant has committed an act or has been guilty of an omission with reference to which he has had his suit dismissed with a finding that he has made dishonestly or fraudulently a material alteration in any document or account relating to a loan."

As regards the rest of the amendment which stands against my name, with your permission, Sir, I do not propose to move. I only move this portion and this is, I think, a necessary amendment. Section 16 relates to the granting of licence and defines the grounds on which a licence can be refused by the licensing officer. There, two grounds have been mentioned. I want to add another, namely, that if a person has had his suit dismissed with a clear finding that he has made dishonestly or fraudulently a material alteration in any document or account relating to a loan, he should not be given any licence. I think it is necessary to safeguard against a fraudulent alteration in the account or document. So, I hope this amendment will be accepted by the House.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) of clause 16 of the Bill, after paragraph (*b*), the following new paragraph be added, namely:—

"(*c*) if the applicant has committed an act or has been guilty of an omission with reference to which he has had his suit dismissed with a finding that he has made dishonestly or fraudulently a material alteration in any document or account relating to a loan".

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I beg to suggest that the consideration of this amendment may be postponed.

Mr. PRESIDENT: Discussion on this amendment is postponed for the present.

Mr. MESBAHUDDIN AHMED: Sir, I beg to move that in clause 16 of the Bill, for sub-clause (*3*), the following be substituted, namely:—

"(*3*) An appeal from the orders of a Sub-Registrar refusing a licence shall, if made within thirty days from the date of such order, lie to a Registrar authorized under section 6 to hear such appeal."

Mr. PRESIDENT: Amendment moved: that in clause 16 of the Bill, for sub-clause (*3*), the following be substituted, namely:—

"(*3*) An appeal from the orders of a Sub-Registrar refusing a licence shall, if made within thirty days from the date of such order, lie to a Registrar authorized under section 6 to hear such appeal."

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that in clause 16 of the Bill, for sub-clause (*3*), the following be substituted, namely:—

"(*3*) An appeal from the orders of a Sub-Registrar refusing a licence shall, if made within thirty days from the date of such order, lie to a Registrar authorized under section 6 to hear such appeal."

(The amendment was agreed to.)

Mr. MESBAHUDDIN AHMED: Sir, I beg to move that in clause 16 of the Bill, in sub-clause (*4*), for the words "in such appeal" in line 2, the words "if such appeal is allowed" be substituted.

Mr. PRESIDENT: Amendment moved: that in clause 16 of the Bill, in sub-clause (*4*), for the words "in such appeal" in line 2, the words "if such appeal is allowed" be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: I accept it.

Mr. PRESIDENT: The question before the House is: that in clause 16 of the Bill, in sub-clause (*4*), for the words "in such appeal" in line 2, the words "if such appeal is allowed" be substituted.

(The amendment was agreed to.)

Mr. RANAJIT PAL CHOUDHURY: Sir, I beg to move that in sub-clause (*6*) of clause 16 of the Bill, for the words "rules prescribed under this Act" appearing in line 3, the words and figures "the procedure laid down by the Code of Civil Procedure, 1908", be substituted.

Sir, this is a very simple amendment and the only thing that I have suggested in this is that the punishment that may be laid down for this particular offence by the Civil Procedure Code is quite sufficient, and instead of making fresh rules for purposes of this Bill, I have suggested that the relevant section of the Civil Procedure Code be applicable for this offence.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*6*) of clause 16 of the Bill, for the words "rules prescribed under this Act" appearing in line 3, the words and figures "the procedure laid down by the Code of Civil Procedure, 1908", be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose the amendment. The procedure that we have prescribed here is more in keeping with the spirit of the Bill, and the Civil Procedure Code will not help us much.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*6*) of clause 16 of the Bill, for the words "rules prescribed under this Act" appearing in line 3, the words and figures "the procedure laid down by the Code of Civil Procedure, 1908", be substituted.

(The amendment was negatived.)

Mr. LALIT CHANDRA DAS: Sir, I beg to move that in sub-clause (7) of clause 16 of the Bill, the following be added at the end, namely:—

"In revision or in appeal, the applicant or the appellant as the case may be, will be required to pay a court-fee charge of annas eight on the application for review or on the memorandum of appeal."

Mr. LALIT CHANDRA DAS: Sir, provision has been made for appeal as well as for revision, but no provision has been made as to the court-fee stamp to be attached to an application for review or to the memorandum of appeal. This is, Sir, intended to remove an apparent defect.

Mr. PRESIDENT: Amendment moved: that that in sub-clause (7) of clause 16 of the Bill, the following be added at the end, namely:—

"In revision or in appeal, the applicant or the appellant as the case may be, will be required to pay a court-fee charge of annas eight on the application for review or on the memorandum of appeal."

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose it.

Mr. PRESIDENT: The question before the House is: that in sub-clause (7) of clause 16 of the Bill, the following be added at the end, namely:—

"In revision or in appeal, the applicant or the appellant as the case may be, will be required to pay a court-fee charge of annas eight on the application for review or on the memorandum of appeal."

(The amendment was negatived.)

Clause 17.

Mr. PRESIDENT: Clause 17 stand pa

Mr. NAGENDRA NARAYAN RAY: Sir, I beg to move that in clause 17 of the Bill, for all the words beginning with "after giving" in line 1, and ending with "heard" in line 4, the words "after hearing the money-lender obtaining a licence" be substituted.

Sir, this is only a drafting change. The language of the Bill is rather cumbrous, and the idea contained in the clause can be better expressed by the language contained in this amendment.

Mr. PRESIDENT: Amendment moved: that in clause 17 of the Bill, for all the words beginning with "after giving" in line 1, and ending with "heard" in line 4, the words "after hearing the money-lender obtaining a licence" be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, the language of the clause according to our experts is better. I do not agree to this change.

Mr. PRESIDENT: The question before the House is: that in clause 17 of the Bill, for all the words beginning with "after giving" in line 1, and ending with "heard" in line 4, the words "after hearing the money-lender obtaining a licence" be substituted.

(The amendment was negatived.)

Mr. MESBAHUDDIN AHMED: Sir, I beg to move that in clause 17 of the Bill, after the brackets and figure "(3)" in line 7, the brackets and figure "(4)", be inserted.

Mr. PRESIDENT: Amendment moved: that in clause 17 of the Bill, after the brackets and figure "(3)" in line 7, the brackets and figure "(4)", be inserted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that in clause 17 of the Bill, after the brackets and figure "(3)" in line 7, the brackets and figure "(4)", be inserted.

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 17, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 18.

Mr. PRESIDENT: Clause 18 stand part of the Bill.

The question before the House is: that clause 18 stand part of the Bill.

(The motion was agreed to.)

Clause 19.

Mr. PRESIDENT: Clause 19 stand part of the Bill.

Mr. MESBAHUDDIN AHMED: Sir, I beg to move——

Khan Bahadur NAZIRUDDIN AHMAD: On a point of order, Sir. I gave notice of an amendment which was exactly the same as this one. In fact, I gave notice earlier and so I think I have the prior right of moving it. (Laughter.)

Mr. MESBAHUDDIN AHMED: No objection to that.

Khan Bahadur NAZIRUDDIN AHMED: It is misappropriation of one's right.

Mr. PRESIDENT: All right, you move the amendment.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move that in clause 19 of the Bill, for the word "the" appearing at the end of line 2, the word "a" be substituted.

Mr. PRESIDENT: Amendment moved: that in clause 19 of the Bill, for the word "the" appearing at the end of line 2, the word "a" be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that in clause 19 of the Bill, for the word "the" appearing at the end of line 2, the word "a" be substituted.

(The amendment was agreed to.)

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I beg to move that at the end of clause 19 of the Bill, the following proviso be added, namely:—

"Provided that if after enquiry it is found that the borrower who made such application had no justification and unnecessarily harassed the money-lender and spent the time of the court, then the money-lender shall be entitled to claim proper compensation from the borrower and the court may realize the cost of enquiry from the borrower."

Sir, the proviso is necessary to guard against frivolous applications. For personal enmity or some such motive, money-lenders are likely to be harassed by his constituents and if provision is made for penalty, there will be some check on such malicious prosecution. I, therefore, move the amendment I have read out.

Mr. PRESIDENT: Amendment moved: that at the end of clause 19 of the Bill, the following proviso be added, namely:—

"Provided that if after enquiry it is found that the borrower who made such application had no justification and unnecessarily harassed the money-lender and spent the time of the court, then the money-lender shall be entitled to claim proper compensation from the borrower and the court may realize the cost of enquiry from the borrower."

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose it. If this amendment is accepted, then evidently an honest borrower even will not dare to come before a court for an enquiry into the conduct of any money-lender. So, I think it does not appear to be in the interest of the debtors whom we are out to help.

Mr. PRESIDENT: The question before the House is: that at the end of clause 19 of the Bill, the following proviso be added, namely:—

"Provided that if after enquiry it is found that the borrower who made such application had no justification and unnecessarily harassed the money-lender and spent the time of the court, then the money-lender shall be entitled to claim proper compensation from the borrower and the court may realize the cost of enquiry from the borrower."

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 19, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 20.

Mr. PRESIDENT: Clause 20 stand part of the Bill.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move that in sub-clause (*1*) of clause 20 of the Bill, for the word and figures "section 42" appearing in line 4, the words "this Act" be substituted.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) of clause 20 of the Bill, for the word and figures "section 42" appearing in line 4, the words "this Act" be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*) of clause 20 of the Bill, for the word and figures "section 42" appearing in line 4, the words "this Act" be substituted.

(The amendment was agreed to.)

Mr. MESBAHUDDIN AHMED: Sir, I beg to move that in clause 20 of the Bill, in sub-clause (*2*), for the words "longer than" in line 4, the word "exceeding" be substituted.

Mr. PRESIDENT: Amendment moved: that in cluase 20 of the Bill, in sub-clause (*2*), for the words "longer than" in line 4, the word "exceeding" be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that in clause 20 of the Bill, in sub-clause (*2*), for the words "longer than" in line 4, the word "exceeding" be substituted.

(The amendment was agreed to.)

Mr. MESBAHUDDIN AHMED: Sir, I beg to move that in clause 20 of the Bill, in sub-clause (*3*), for the word "case", the word "proceedings" be substituted.

Mr. PRESIDENT: Amendment moved: that in clause 20 of the Bill, in sub-clause (*3*), for the word "case", the word "proceedings" be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that in clause 20 of the Bill, in sub-clause (*3*), for the word "case", the word "proceedings" be substituted.

(The amendment was agreed to.)

Mr. MESBAHUDDIN AHMED: Sir, I beg to move that in clause 20 of the Bill, in sub-clause (*4*), for the word "sub-section" wherever it occurs, the word "section" be substituted.

Mr. PRESIDENT: Amendment moved: that that in clause 20 of the Bill, in sub-clause (*4*), for the word "sub-section" wherever it occurs, the word "section" be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that in clause 20 of the Bill, in sub-clause (*4*), for the word "sub-section" wherever it occurs, the word "section" be substituted.

(The amendment was agreed to.)

Mr. KAMINI KUMAR DUTTA: Sir, I beg to move that in sub-clause (*6*) of clause 20 of the Bill, for the word "fifty" occurring in line 6, the word "twenty" be substituted.

Sir, fifty seems to be excessive.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*6*) of clause 20 of the Bill, for the word "fifty" occurring in line 6, the word "twenty" be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose it.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*6*) of clause 20 of the Bill, for the word "fifty" occurring in line 6, the word "twenty" be substituted.

(The amendment was negatived.)

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move that in sub-clause (*7*) of clause 20 of the Bill, for the word "Powers", the words "The powers" be substituted.

Sir, this is proposed for reasons of grammar. (Laughter.)

Mr. PRESIDENT: Amendment moved: that in sub-clause (*7*) of clause 20 of the Bill, for the word "Powers", the words "The powers" be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*7*) of clause 20 of the Bill, for the word "Powers", the words "The powers" be substituted.

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 20, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 21.

Mr. PRESIDENT: Clause 21 stand part of the Bill.

Mr. KAMINI KUMAR DUTTA: Sir, I beg to move that clause 21 of the Bill be renumbered as sub-clause (*1*) of clause 21 and the following new sub-clause be added at the end, namely:—

"(*2*) When the licence of money-lender has been cancelled, though such money-lender shall not be entitled to make any application for registration as money-lender during the period in which such order of cancellation remains in force, such cancellation shall not preclude the money-lender from instituting suits and getting decrees in respect of loans advanced by him before the date of order of such cancellation."

By this amendment, I only desire to make it clear that when a licence is cancelled, this will not debar the person who formerly did hold a licence from realising the amount which he had invested during the validity of his licence. This is only to make it clear that that may not stand in the way of his realising his just dues.

Mr. PRESIDENT: Amendment moved: that clause 21 of the Bill be renumbered as sub-clause (*1*) of clause 21 and the following new sub-clause be added at the end, namely:—

"(*2*) When the licence of money-lender has been cancelled, though such money-lender shall not be entitled to make any application for registration as money-lender during the period in which such order of cancellation remains in force, such cancellation shall not preclude the money-lender from instituting suits and getting decrees in respect of loans advanced by him before the date of order of such cancellation."

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I think that it is not necessary. I refer my friend to section 13 (*1*) of the Bill. There, it has been said that if it is found that the lender lent his money without any licence, then and then only he will be precluded from bringing his suit. This being the case, if I accept a proposition like this, it will be simply repeating what has been said in section 13 (*1*) of the Bill. So, I oppose the amendment.

Mr. PRESIDENT: The question before the House is: that clause 21 of the Bill, be renumbered as sub-clause (*1*) of clause 21 and the following new sub-clause be added at the end, namely:—

"(2) When the licence of money-lender has been cancelled, though such money-lender shall not be entitled to make any application for registration as money-lender during the period in which such order of cancellation remains in force, such cancellation shall not preclude the money-lender from instituting suits and getting decrees in respect of loans advanced by him before the date of order of such cancellation."

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 21 stand part of the Bill.

(The motion was agreed to.)

Clause 22.

Mr. PRESIDENT: Clause 22 stand part of the Bill.

The question before the House is: that clause 22 stand part of the Bill.

(The motion was agreed to.)

Clause 23.

Mr. PRESIDENT: Clause 23 stand part of the Bill.

Mr. MESBAHUDDIN AHMED: Sir, I beg to move that in sub-clause (*1*) of clause 23 of the Bill, for the words "be of no effect" appearing in line 7, the words "not be deemed to be an effective licence" be substituted.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) of clause 23 of the Bill, for the words "be of no effect" appearing in line 7, the words "not be deemed to be an effective licence" be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*) of clause 23 of the Bill, for the words "be of no effect" appearing in line 7, the words "not be deemed to be an effective licence" be substituted.

(The amendment was agreed to.)

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move the amendment standing in my name with the omission of the first portion.

Mr. PRESIDENT: All right.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move that in sub-clause (2) of clause 23 of the Bill, after the words "under this Act" appearing in line 3, the words "or abets such obliteration or attempt" be inserted.

Mr. PRESIDENT: Amendment moved: that in sub-clause (2) of clause 23 of the Bill, after the words "under this Act" appearing in line 3, the words "or abets such obliteration or attempt" be inserted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that in sub-clause (2) of clause 23 of the Bill, after the words "under this Act" appearing in line 3, the words "or abets such obliteration or attempt" be inserted.

(The amendment was agreed to.)

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I beg to move that in sub-clause (2) of clause 23 of the Bill, the following new paragraph be added, namely:—

> "But if the Court is satisfied after enquiry or taking evidence that in cases of widows, etc., there is sufficient reason to believe that the person is innocent, may exempt the person from the penalty."

Sir, this amendment is for the protection of innocent people and it is necessary in the interests of the public. So, I have proposed to have a proviso under the section.

Mr. PRESIDENT: Amendment moved: that in sub-clause (2) of clause 23 of the Bill, the following new paragraph be added, namely:—

> "But if the Court is satisfied after enquiry or taking evidence that in cases of widows, etc., there is sufficient reason to believe that the person is innocent, may exempt the person from the penalty."

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose it.

Mr. PRESIDENT: The question before the House is; that in sub-clause (*2*) of clause 23 of the Bill, the following new paragraph be added, namely:—

"But if the Court is satisfied after enquiry or taking evidence that in cases of widows, etc., there is sufficient reason to believe that the person is innocent, may exempt the person from the penalty."

(The amendment was negatived.)

The question before the House is that clause 23, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 24.

Mr. PRESIDENT: Clause 24 stand part of the Bill.

Rai Sahib INDU BHUSAN SARKAR: Sir, I beg to move that in sub-clause (*1*) of clause 24 of the Bill, all the words beginning with "in such" in line 2, and ending with "business" in line 5, be omitted.

Sir, the clause, as amended, will read as follows:—

"(*1*) Every money-lender shall keep and maintain at least a cash book, a ledger and a receipt book."

Sir, my reason for moving this amendment is that there are so many customary forms in which accounts are kept by all classes of business-men including the money-lenders in this province that it is almost impossible to bring them under a standardised form without seriously dislocating the business. Therefore, the provision requiring the money-lenders to keep their accounts in standardised forms seems to be unnecessarily harsh. Again, the provision that accounts have to be kept either in English or in Bengali would also operate harshly upon many persons who do money-lending business in this province but do not know either of these two languages and keep their accounts in their own languages. Many of them are men of small means and themselves keep their own accounts. It will inflict a serious hardship on them if they are required to keep their accounts in a language other than their own. This will be found to be unworkable in practice. Therefore, it will be an act of grave injustice to compel them all on a sudden to keep their accounts in a different language and in a form other than time-honoured ones, and will land the money-lenders in serious difficulties. I, therefore, propose the deletion of the relevant words.

In this connection, I would like to point out that the Income-tax Department in this province as well as in other provinces allow persons to keep accounts in their own language and if they are not so allowed to keep their accounts in their own language, then it will really be a great hardship on their part to write these accounts because the small money-lenders cannot engage men on their behalf to have their accounts written either in English or in Bengali. In that case, there will not only be hardship on their part in maintaining accounts but also the facility of giving money to poor people will be lost. For this reason, I have moved this amendment. As every one is entitled under the Income-tax Act to have his accounts maintained in his own language, I do not know why this should not be possible under this legislation.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) of clause 24 of the Bill, all the words beginning with "in such" in line 2, and ending with "business" in line 5, be omitted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, we have considered this amendment very carefully. My friend has given only one side of the picture. I want to tell him that when we have proposed that there should be a ledger, a receipt book and a cash book kept by the money-lenders, the idea is that when necessity arises, inspection may be made of such books. But inspection will not be possible if these books are kept in any language other than the languages generally spoken in Bengal. So, we think that these books specially must be kept either in English or in Bengali so that, if necessary, they can be examined by our officers.

Rai Sahib INDU BHUSAN SARKAR: On a point of information, Sir, I think that Khan Bahadur Ataur Rahman will bear me out from his experience as the Assistant Income-tax Commissioner when I say that the Income-tax Officer is expected to know all the languages prevalent in the province.

Mr. PRESIDENT: Order, order. You can only put a question. You cannot explain anything else. You have no right of reply.

Rai Sahib INDU BHUSAN SARKAR: Is it a fact that in the Income-tax Department, an Income-tax Officer or Assistant Income-tax Commissioner is expected to know the different languages prevalent in the province?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: It may be right so far as the Income-tax Department is concerned, but so far as our officers are concerned, they are not expected to know any language other than Bengali and English.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*) of clause 24 of the Bill, all the words beginning with "in such" in line 2 and ending with "business" in line 5, be omitted.

(The amendment was negatived.)

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I beg to move that at the end of sub-clause (*1*) of clause 24 of the Bill, the following be added, namely:—

"or with the specicial permission of the Provincial Government, the persons who are not conversant with the English or the Bengali language, may keep accounts in other language or languages than Bengali or English, but, if necessary, Government can charge from them the remuneration of interpreter if so required."

Sir, great hardship is to be caused to money-lenders who are not Bengalis, if they are to keep their accounts in Bengali. There are numerous non-Bengali money-lenders who are not conversant with English also. Many of these people are quite illiterate. If their accounts are kept in Bengali or English, by persons who do not habitually use their language, the chances of mistake will be great and owing to their illiteracy they will not be able to verify such statements. This will lead to a highly undesirable state of things.

Mr. PRESIDENT: Amendment moved: that that at the end of sub-clause (*1*) of clause 24 of the Bill, the following be added, namely:—

"or with the special permission of the Provincial Government, the persons who are not conversant with the English or the Bengali language, may keep accounts in other language or languages than Bengali or English, but, if necessary, Government can charge from them the remuneration of interpreter if so required."

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose it. My reason for doing so is that I do not wish that Government should have any discretionary power like this. It will go against the spirit of the Constitution.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, in opposing this motion, I submit that the Marwaris and others, who try to get rich as quickly as possible,—if they do not know Bengali—will be compelled to employ some unemployed men for that purpose. This amendment will not, therefore, be suitable.

Raja Bahadur BHUPENDRA NARAYAN SINHA, of Nashipur: Sir, I beg to support the amendment. The simple reason is that there are persons who do not know English or Bengali. If such people are all on a sudden forced to learn and write down their accounts in Bengali or English, it will cause great hardship to them. As my friend, Khan Bahadur Naziruddin Ahmad has pointed out, they will in that case have to engage another set of men. That means cost, but who will bear the cost? This will mean an additional expense to them.

Secondly, Sir, the prescribed form is there, but only the written character will be in their own languages. And as the Hon'ble Minister says, if an Inspector goes to inspect the accounts, he can ask them to show the accounts and translate them into Bengali. If that is possible for the Income-tax Department, why will it not be possible to be done in this case? Men of the Income-tax Department are all Bengalis; they have not come from the Punjab or Mewar and still they are carrying on their work efficiently and examining accounts written in other languages. Then, why is it not possible for Government to do likewise? They should engage such men who know something about it; failing which they can ask them to write to the Marwaris to translate their own accounts into Bengali. The money-lenders can do so; the Postmasters also do that. Even letters written in Persian, Urdu and other languages have to be sent to the proper addresses, and the Postmaster is supposed to know all these languages. If he does not know, he will try to do it; he will engage somebody to read it out to him and then he will send the letters to the proper men. In a similar way, this can be done here.

Moreover, Sir, it is desirable that after sometime has passed we may insist on this; but if all of a sudden we enforce this, it will cause great hardship in the province. I think the Hon'ble Minister has said that the prevailing languages in Bengal are Bengali and English. I do not agree with him there. There are certain districts where Urdu and Hindusthani are also spoken languages. So, that point ought also to be considered.

With these words, Sir, I support the motion.

Mr. KADER BAKSH: Sir, it is most amusing to find that the Raja Bahadur has taken up the cause of the Marwaris. (Laughter.) (Raja Bahadur BHUPENDRA NARAYAN SINHA, of Nashipur: No, I spoke for those who speak Urdu.) He has said that like Income-tax officers, other officers of Government who are entrusted with this kind of work should be compelled to learn other languages such as Marwari, etc. My submission is, Sir, why should a Bengali be compelled to learn the languages of other provinces when men who come here and eat the life-blood of Bengalis do not like to learn the Bengali

language? I think that it is they who should be compelled to keep their accounts in Bengali or English which are the languages of Bengal. We do not like to introduce Marwari, Sindhi or other languages here.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I think that the analogy of the Income-tax Department does not hold good in this case, because the Income-tax Department have got a special staff which can be trained in all languages, whereas we do not think of having a special staff for checking money-lenders' accounts. The idea is to utilize the ordinary administrative staff for checking the accounts of money-lenders. So, they cannot be compelled to learn the various languages. I therefore, oppose this amendment.

Rai Sahib INDU BHUSAN SARKAR: Sir, one thing strikes me, namely, that when a law has been prescribed for controlling the business of money-lending, if a money-lender is required to pay the prescribed fee, why should he not be entitled to have his accounts written in his own language? As our leader, the Raja Bahadur, has said, if one purchases a postage stamp and he attaches it to his letter and posts it, the Postmaster who is required to know the different languages is to see that the letter will reach the proper addressee. Why should then a money-lender, after payment of licence fee, be deprived of exercising the right of writing accounts in his own language?

Moreover, there is the question of universal brotherhood and Indian nationalism. It is not that we have to learn French or Latin or something like that, but generally speaking Urdu and Hindusthani are the languages which are required to be known for this sort of business. So, I think that the contention of our leader, the Raja Bahadur, is quite sensible and it should be taken into consideration. I, therefore, support the amendment.

Mr. PRESIDENT: The question before the House is: that at the end of sub-clause (*1*) of clause 24 of the Bill, the following be added, namely:—

> "or with the special permission of the Provincial Government, the persons who are not conversant with the English or the Bengali language, may keep accounts in other language or languages than Bengali or English, but, if necessary, Government can charge from them the remuneration of interpreter if so required."

(The amendment was negatived.)

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I beg to move that in sub-clause (2) (a) of clause 24 of the Bill, for the words "at the time" appearing in line 1, the words "within a week" be substituted.

Sir, this sub-clause provides that the money-lender shall deliver to the borrower, at the time a loan is advanced, a statement in Bengali or in English as the borrower may desire, in such form as may be prescribed, showing clearly and distinctly such details of the condition of the loan and such other information connected therewith as may be prescribed. But the expression "at the time of the loan" is quite vague. Evidently, it means "after a transaction" is completed. Unless we place a time-limit beyond which the delivery of a statement cannot be delayed, the object of the section will be frustrated. I therefore, propose that such statement shall not be delayed beyond a week. Accordingly, I move this amendment for the acceptance of the House.

Mr. PRESIDENT: Amendment moved: that in sub-clause (2) (a) of clause 24 of the Bill, for the words "at the time" appearing in line 1, the words "within a week' be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose it.

Mr. PRESIDENT: The question before the House is: that in sub-clause (2) (a) of clause 24 of the Bill, for the words "at the time" appearing in line 1, the words "within a week" be substituted.

(The amendment was negatived.)

Mr. MESBAHUDDIN AHMED: Sir, I beg to move that in paragraph (a) of sub-clause (2) of clause 24 of the Bill, the words "clearly and distinctly" in line 4, be omitted.

Mr. PRESIDENT: Amendment moved: that in paragraph (a) of sub-clause (2) of the Bill, the words" clearly and distinctly" in line 4, be omitted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that in paragraph (a) of sub-clause (2) of the Bill, the words "clearly and distinctly" in line 4, be omitted.

(The amendment was agreed to.)

Rai SATIS CHANDRA MUKHERJI Bahadur: Sir, I beg to move that to clause 24 of the Bill, the following proviso be added, namely:—

"Provided that the provisions of this section shall not apply to money-lenders whose capital does not exceed the sum of Rs. 5,000".

Sir, the proviso that I have suggested requires that the conditions laid down by the section that every money-lender shall keep and maintain at least a cash book, a ledger and a receipt book and that he shall deliver to the borrower, whenever a loan is advanced, a statement in Bengali or in English as the borrower may desire, showing all details of the conditions of the loan, should not apply in the case of small loans. What I am suggesting, Sir, is that although these things are very necessary, the Hon'ble Minister may be pleased to consider whether in the case of small loans also the same stringency is required. I submit, Sir, that in the case of small loans, such stringency is not necessary, as this will simply lead to inconvenience and trouble. Therefore, I suggest that what the proviso seeks to do is only to exempt small loans from the operation of this clause, and I hope that this amendment will be accepted by Government.

Mr. PRESIDENT: Amendment moved: that to clause 24 of the Bill, the following proviso be added, namely:—

"Provided that the provisions of this section shall not apply to money-lenders whose capital does not exceed the sum of Rs. 5,000".

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose this amendment because it is unnecessary. The Bill has given ample power to decide whether exception can be made or not in the case of any class of persons. It will be the duty of the Government to see that the Bill is what it rightly and properly aims at achieving and that its administration does not put any difficulty in the way of the people. So, my friend may rest assured that as the Bill is going to be worked properly, there will be no necessity for his amendment.

Mr. HUMAYUN KABIR: Sir, I regret that I have to oppose this amendment, but not for the reasons stated by the Hon'ble Minister. I think, Sir, that the Hon'ble Minister has really given no reason at all for opposing the amendment. If the argument which he has advanced, namely, that Government under its rule-making powers may exempt anybody or bring in anybody, is accepted, then there is no point in legislating in this House at all. But I oppose the amendment on merit, because I think that this Bill—the Bengal Money-Lenders'

Bill—is intended to benefit primarily the small agriculturists, the poorer classes of persons, who borrow and who often have to suffer on account of their ignorance, illiteracy and other reasons. My own belief is and I have held before in this House that persons who negotiate large loans, who borrow on a large scale or who lend on a large scale, can look after their own interests, whereas it is the small borrower who deserves to be protected by the State and that is the sole purpose of the Bill. Therefore, Sir, I submit that this amendment goes against the very spirit of the Bill. I oppose it on that ground and not on the ground which the Hon'ble Minister has advanced.

Mr. PRESIDENT: The question before the House is: that to clause 24 of the Bill, the following proviso be added, namely:—

"Provided that the provisions of this section shall not apply to money-lenders whose capital does not exceed the sum of Rs. 5,000".

(The amendment was negatived.)

Mr. KAMINI KUMAR DUTTA: Sir, I want to move this amendment with a slight change in drafting to make it more clear.

Mr. PRESIDENT: All right.

Mr. KAMINI KUMAR DUTTA: May I move the amendment?

Mr. PRESIDENT: Yes.

Mr. KAMINI KUMAR DUTTA: Sir, I beg to move that to sub-clause (2) of clause 24 of the Bill, the following new sub-clause be added, namely:—

"(3) Notwithstanding anything contained in the Indian Evidence Act, 1872, a copy of the account referred to in sub-clause (1) shall, if certified as may be prescribed, be admissible as evidence of the contents of such account."

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I suggest that it will be better to use the word "sub-section" instead of "sub-clause".

Mr. KAMINI KUMAR DUTTA: Sir, I accept the suggestion of the Hon'ble Minister. In moving this amendment, I may say that it is based on the analogy of the Bankers Evidence Act. As under the

Bankers Evidence Act, the entries in the books of a Banker are admissible in themselves without calling for the original, so on the same analogy, copies, certified in the prescribed manner, may be admissible. In the Bankers Evidence Act, the manner in which the copies have to be certified is laid down. So, in respect of the copies of these particular accounts, it may be prescribed by Government as to the manner in which it should be certified. Sir, this procedure will be in the interests of persons having dealings in money-lending transactions,—both the lender and the borrower,—to expedite transactions in court by making these copies admissible in evidence without calling for the original.

Mr. PRESIDENT: Amendment moved: that after sub-section (2) of clause 24 of the Bill, the following new sub-section be added, namely:—

"(3) Notwithstanding anything contained in the Indian Evidence Act, 1872, a copy of the account referred to in sub-section (1) shall, if certified in such manner as may be prescribed, be admissible as evidence of the contents of such account."

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that after sub-section (2) of clause 24 of the Bill the following new sub-section be added, namely:—

"(3) Notwithstanding anything contained in the Indian Evidence Act, 1872, a copy of the account referred to in sub-section (1) shall, if certified in such manner as may be prescribed, be admissible as evidence of the contents of such account".

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is that clause 24, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 25.

Mr. PRESIDENT: Clause 25 stand part of the Bill.

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I beg to move that clause 25 of the Bill be omitted.

Sir, this clause provides that money-lenders should furnish accounts either of their own motion yearly, or six-monthly on requisition, within thirty days of the requisition. The money-lender is also to supply a

copy of the document evidencing an agreement to secure repayment of a loan advanced to the borrower and subsequent copies, on payment of a prescribed fee. But while he is put to such an amount of trouble and expense and he is also bound by the statements so supplied, the borrower is not bound to acknowledge or deny its correctness. From the point of view of the money-lender, such statements of accounts are, therefore, worse than useless. Unless acquiescence in such periodical supplies of statement of accounts is made binding on the borrower, the money-lender should not be made to go through such useless rounds of duty at his own expense and trouble. When these accounts can be challenged at the option of the borrower even after the lapse of considerable time and when the account so stated can be re-opened by the borrower, the Statute Book should not be burdened with such useless provisions of the law. I, therefore, propose that the whole section or at lease those portions of the sub-clauses of section 25, be omitted.

Mr. PRESIDENT: Amendment moved: that clause 25 of the Bill be omitted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose it.

Rai Sahib INDU BHUSAN SARKAR: Sir, in supporting this amendment moved by Rai Surendra Narayan Sinha Bahadur, I want to say only this. As regards big money-lenders, as my friend has said, they have got their own men, because their business is on a large scale. But as regards small money-lenders who really transact business with small amounts, that is their only means of livelihood. If they at least are excluded from keeping these accounts, it will be a great relief to them. Moreover, the object of this amendment is to save money-lenders from unnecessary harassments by the borrowers who may needlessly ask the money-lenders to furnish them with a statement of their accounts. It is to the interest of the borrower himself to keep a statement of his accounts. My submission is that when a Bank lends money to the people, they are not to supply this sort of accounts. It may be possible to give them a statement in the first year giving the date of first advance of loan, the rate of interest and so forth. But afterwards from that chit, the borrower can easily calculate the interest and find out for himself his position. It is also stated that whenever any payment is made, it should be endorsed on the back of the bond. That being so, there will not be any difficulty regarding the payment. Of course, there are some cases where it is not possible to have it endorsed on the bond always. In such cases, it may be challenged in the Court when a suit is instituted. So, my submission is that specially in the case of small money-lenders, this sort of supplying

accounts year after year will be really a great hardship on their part when they have no clerks to do this work on their behalf. They are ignorant people who do not know how to read or write. With these words, I support the amendment.

Mr. KADER BAKSH: Sir, it is very amusing to find the Rai Sahib supporting the Rai Bahadur and the Rai Bahadur supporting the Rai Sahib because they belong to the same class. They think that special facilities should be provided for the people of Dacca and Berhampore. Be that as it may, I do not understand the object of this amendment. These people have been found dishonest in the past and therefore there should be stricter laws about the keeping and maintenance of these accounts. If some Banks do not supply any accounts, that is no justification why other individual money-lenders should not keep and render accounts to the borrowers who are generally uneducated and illiterate. Why should they not supply this information? I do not understand the reason. Therefore, I oppose this motion.

Mr. PRESIDENT: The question before the House is: that clause 25 of the Bill be omitted.

(The amendment was negatived.)

Raja BHUPENDRA NARAYAN SINHA Bahadur: Sir, I beg to move that in sub-clause (*1*) of clause 25 of the Bill, for the words "within two months of the commencement of each year", appearing in lines 1 and 2, the words "on demand once in twelve months", be substituted.

Sir, the object of my amendment is that it would be a botheration to the money-lender if he is forced to supply a statement in the course of two months from the beginning of the year, as provided for under this clause. My proposal is that on demand the money-lender should supply a statement of account once in twelve months. The reason is that if the account be supplied, the debtor may miss it and as the Bill provides that the accuracy of the account would not be accepted by the debtor and as the money-lender would be penalised for not supplying the account, it is highly desirable that on demand only, it should be supplied. Further, there may be change of address of the debtor and in that case there is every chance that the account might be mislaid and may not reach the debtor. My second point is that there might be legal difficulty with regard to the interpretation of the word "year". It may be the Bengali year or the calendar year or the Sambat year or the Mohammedan year or the English official year. So, in order to do away with all this ambiguity, my suggestion is that for the word "year", twelve months be substituted. Sir, with these words, I commend my motion for the acceptance of the House.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) of clause 25 of the Bill, for the words "within two months of the commencement of each year" appearing in lines 1 and 2, the words "on demand once in twelve months", be substituted.

Rai Bahadur SATIS CHANDRA MUKHERJI: Sir, I rise to support the amendment moved by the Raja Bahadur for the following reasons. Instead of making it compulsory that the money-lender shall within two months of each year furnish the borrower with a statement, the amendment seeks to have this furnished once in twelve months. The amendment suggested by the Raja Bahadur, I submit, is a necessary amendment; the more so, if we consider the next two provisions in the Bill. This furnishing of account by the money-lender to the borrower need not be acknowledged by the borrower as regards its accuracy or its genuineness. But the point is that the creditor is to furnish the debtor with an account but the debtor is not required under the provision of this section to acknowledge the receipt of this. Not only that. There is a more drastic section—section 27 which says that in any suit by the creditor against the borrower for the recovery of his money, the Court shall, before deciding the claim on merits, frame and decide the issue whether the money-lender has in respect of the claim in suit complied with the provisions of sections 24 and 25.

Then the section proceeds: "if the Court finds that the provisions of either of the said sections have not been so complied with, it may, if the plaintiff's claim is established either wholly or in part, disallow the whole or any portion of the interest found due as may, in the circumstances of the case, appear reasonable to the Court, and may also disallow costs, or in computing the amount of interest due upon the loan, the Court may exclude any period for which the money-lender omitted to comply with the provisions of either of the said sections."

Therefore, it will appear that the omission of this new duty which is cast on the creditor will be visited by drastic penalties provided for in section 27 of the Bill. If that be so, I suggest that instead of making it compulsory on the creditor to furnish the debtor with a legible statement of accounts within two months of each year, it will be preferable to compel the creditor to furnish this account on demand by the borrower once in twelve months.

I also suggest to the Hon'ble Minister to insert a provision in the Bill making it similarly compulsory on the debtor to acknowledge it; otherwise, as a matter of fact, in each case, such an issue will be framed by the Court and evidence will have to be called for on this issue. The creditor will say—"I furnished it" and the debtor will deny it, and the Court might disagree with either of these views. Therefore, I suggest that acknowledgment by the debtor should be made compulsory having regard to the interest of both the parties.

With these words, I support the amendment of the Raja Bahadur.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I rise to oppose the motion. This provision is an improvement on the existing Bengal Act regarding money-lending passed some time ago in 1933. There, the provision was made that the lender on demand from the borrower will have to give account. But now it has been found in the course of the working of this Act for about 6 years that it has not worked well. So, Government think that it should be made incumbent on the lender to furnish accounts every year within two months from the beginning of the year. If that is done, a lot of difficulties which the present borrowers are actually suffering from will disappear. He will know his case; he will know where he stands. That is the reason why this change has been made in the law. I hope that in view of this explanation, my friend the Raja Bahadur will kindly withdraw his motion.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*) of clause 25 of the Bill, for the words "within two months of the commencement of each year" appearing in lines 1 and 2, the words "on demand once in twelve months" be substituted.

(The amendment was negatived.)

Mr. KAMINI KUMAR DUTTA: Sir, I beg to move that in sub-clause (*1*) of clause 25 of the Bill,—

(*i*) after the words "the commencement of each year", appearing in line 2, the words "keep ready for delivery, and on requisition in writing made by the debtor," be inserted; and

(*ii*) after the word "borrowers" in lines 2 and 3, the words "or if he so requires to any person mentioned by him in that behalf in his requisition", be inserted.

My object in moving this amendment will be evident from the amendment itself. The provision made in clause 25 is certainly a very healthy provision. But, at the same time, it must be made workable so that there may not be any abuse of a healthy provision. It appears that provision made in this clause 25 is not a mere formal provision; for, non-compliance with that will be visited by very penal consequences, as provided for in the subsequent clauses. So, sufficient caution ought to be taken that a law may not be enacted which would leave room for its abuse. And with that object, I propose this amendment which says that it will be the duty of the money-lender to keep ready this statement of accounts within two months. But it has been said that he has to deliver this account to the debtor. Now, if the debtor

would not appear before him, it may be physically impossible for him to seek him out and to deliver the statement. So, in order to make it workable and to remove that physical disability, I have proposed this amendment which is to the effect that he shall be bound to keep ready for delivery within the prescribed period a statement of the loan account and just on the first demand he will be bound to deliver his accounts either to the debtor himself or if the debtor would appoint any agent on his behalf, to the agent. So, my object in moving this amendment is really to make the healthy provision of this clause more effective and workable.

Mr. PRESIDENT: Amendment moved that in sub-clause (*1*) of clause 25 of the Bill,—

(*i*) after the words "the commencement of each year", appearing in line 2, the words "keep ready for delivery, and on requisition in writing made by the debtor," be inserted; and

(*ii*) after the word "borrowers" in lines 2 and 3, the words "or if he so requires to any person mentioned by him in that behalf in his requisition", be inserted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: I oppose this motion. If my friend will read this section as a whole, he will find that we have made provision in this section for two kinds of demands—one is the statutory obligation that we have imposed upon the creditor to furnish the borrower with accounts every year after a lapse of two months of the year. That is one. But if on other occasions, the borrower demands it, then some time will be given. So, in this case, two months' time has been given to the lender to prepare his accounts and deliver them to the borrower. In the other case also, we have made similar provision that some time must be given to him. So, when a demand is made, it will not have to be satisfied instantaneously. Some time will be necessary to prepare the accounts. So, if these two sections are read together, my friend will not feel any difficulty in reconciling them and in finding that we have given careful consideration to the effect of this section on the money-lenders as well. We have given him full clear two months to prepare the accounts and send them to the borrower. As to how he is to do it has not, of course, been mentioned, but according to the earlier Act, it could be sent through the post office. That is not very material. I do not think that the working of this section will lead to any complication. If even after a lapse of two months which has been allowed by the Legislature, the lender fails to send the accounts to the borrower, then it will mean that he actually does not like to render accounts and if for such laches, section 27 has provided some drastic remedy, the Legislature cannot

be blamed for that. Every care has been taken to see that the borrower actually knows where he stands. You all know that illiterate borrowers do not know where they stand and what their actual position is That is the reason why we have made some drastic provisions in this Bill. I hope, my friend will appreciate this and withdraw his motion.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*) of clause 25 of the Bill,—

(*i*) after the words "the commencement of each year", appearing in line 2, the words "keep ready for delivery, and on requisition in writing made by the debtor," be inserted; and

(*ii*) after the word "borrowers" in lines 2 and 3, the words "or if he so requires to any person mentioned by him in that behalf in his requisition", be inserted.

(The amendment was negatived.)

Mr. MESBAHUDDIN AHMED: Sir, I beg to move that in clause 25 of the Bill—

(1) in sub-clause (*1*)—

(*i*) for the word "of" appearing in line 5, the words "and showing" be substituted;

(*ii*) the words "made out" in line 6, be omitted; and

(*iii*) in paragraph (*c*), for the word "made" in line 4, the word "received" be substituted.

Mr. PRESIDENT: Amendment moved: that in clause 25 of the Bill—

(1) in sub-clause (*1*)—

(*i*) for the word "of" appearing in line 5, the words "and showing" be substituted;

(*ii*) the words "made out" in line 6, be omitted; and

(*iii*) in paragraph (*c*), for the word "made" in line 4, the word "received" be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is; that in clause 25 of the Bill—

(1) in sub-clause (*1*)—

(*i*) for the word "of" appearing in line 5, the words "and showing" be substituted;

(*ii*) the words "made out" in line 6, be omitted; and

(*iii*) in paragraph (*c*), for the word "made" in line 4, the word "received" be substituted.

(The amendment was agreed to.)

Mr. NUR AHMED: Sir, I beg to move that after paragraph (*e*) in sub-clause (*1*) of clause 25 of the Bill, the following new paragraph be added namely:—

"(*f*) such other particulars as may be prescribed by rules framed under this Act".

I think that this is necessary for giving effect to the purpose of this Bill.

Mr. PRESIDENT: Amendment moved: that after paragraph (*e*) in sub-clause (*1*) of clause 25 of the Bill, the following new paragraph be added, namely:—

"(*f*) such other particulars as may be prescribed by rules framed under this Act".

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that after paragraph (*e*) in sub-clause (*1*) of clause 25 of the Bill, the following new paragraph be added, namely:—

"(*f*) such other particulars as may be prescribed by rules framed under this Act".

(The amendment was agreed to.)

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move a consequential amendment that the word "and" at the end of sub-clause (*d*) of clause 25, be omitted and the word "and", be added at the end of clause 25.

Mr. PRESIDENT: Amendment moved: that the word "and" at the end of sub-clause (*d*) of clause 25, be omitted and the word "and", be added at the end of clause 25.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it

Mr. PRESIDENT: The question before the House is: that the word "and" at the end of sub-clause (*d*) of clause 25, be omitted and the word "and", be added at the end of clause 25.

(The amendment was agreed to.)

Mr. MESBAHUDDIN AHMED: Sir, I beg to move that in clause 25 of the Bill, in the proviso to sub-clause (*2*), for the word "a" appearing at the end of line 4, the word "the" be substituted.

Mr. PRESIDENT: Amendment moved: that in clause 25 of the Bill, in the proviso to sub-clause (*2*), for the word "a" appearing at the end of line 4, the word "the" be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is that in clause 25 of the Bill, in the proviso to sub-clause (*2*), for the word "a" appearing at the end of line 4, the word "the" be substituted.

(The amendment was agreed to.)

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I beg to move that in sub-clause (*3*) of clause 25 of the Bill, after the words "the borrower" in line 5, the words "on payment of a fee as will be prescribed" be added.

Sir, the document evidencing an agreement to secure repayment of a loan advanced to the borrower is often a considerably big document running into several pages and it would be a hardship on many money-lenders to compel them to supply a copy of the same to the borrower free of charge. There may be a mistake also. So, I move this amendment for the consideration of the House.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*3*) of clause 25 of the Bill, after the words "the borrower" in line 5, the words "on payment of a fee as will be prescribed" be added.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose it.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*3*) of clause 25 of the Bill, after the words "the borrower" in line 5, the words "on payment of a fee as will be prescribed" be added.

(The amendment was negatived.)

Rai SATIŚ CHANDRA MUKHERJI Bahadur: Sir, I beg to move that in clause 25 of the Bill, after sub-clause (*4*), the following new sub-clause be inserted, namely:—

"(*5*) The Statements referred to in sub-sections (*1*) and (*2*) and copy referred to in sub-section (*3*) of this section shall be sent by V. P. Post by the money-lender to the debtor charging the latter with the costs incurred for sending the same to him."

The object of my moving this amendment is this that this particular section imposes a heavy liability on the creditor and he is required to make copies of documents to be given to his debtor. The number of instances may be numerous where he is required to make copies. Further, he is also to supply the debtor on demand copies of these statements. The object that I have in moving this amendment is two-fold. First of all, the debtor should not get all these things without any cost, because the preparation of these accounts involves expenditure of some money on the part of the creditor. When this is being done for the benefit of the debtor, it is reasonable that the debtor should pay for the same. The amount may or may not be large in each instance, but the cumulative amount with regard to each creditor may be large. Therefore, Government may prescribe the amount to be levied by the creditor in each case. Secondly, in what way are these things to be sent? The law does not provide the way in which these accounts are to be sent which might lead to numerous difficulties. Therefore, I am suggesting that these should be sent by V. P. Post charging the debtor these costs. This will serve a twofold purpose. The creditor will be able to realise his cost and it will be a proof that he has complied with the conditions laid down in this Bill. Therefore, it will not give rise to much dispute when a suit is instituted in respect of the amount.

Mr. PRESIDENT: Amendment moved: that in clause 25 of the Bill, after sub-clause (*14*), the following new sub-clause be inserted, namely:—

"(*5*) The Statements referred to in sub-sections (*1*) and (*2*) and copy referred to in sub-section (*3*) of this section shall be sent by V. P. Post by the money-lender to the debtor charging the latter with the costs incurred for sending the same to him."

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose it and the reason is obvious.

Mr. PRESIDENT: The question before the House is: that in clause 25 of the Bill, after sub-clause (*4*), the following new sub-clause be inserted, namely:—

"(*5*) The Statements referred to, in sub-sections (*1*) and (*2*) and copy referred to in sub-section (*3*) of this section shall be sent by V. P. Post by the money-lender to the debtor charging the latter with the costs incurred for sending the same to him."

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 25, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 26.

Mr. PRESIDENT: Clause 26 stand part of the Bill.

Rai SATIS CHANDRA MUKHERJI Bahadur: Sir, I beg to move that in clause 26 of the Bill, for all the words beginning with "and his failure" appearing in line 3 up to the end of the clause, the following be substituted, namely:—

"but his failure to do so will raise a rebuttable presumption about the correctness of the account".

Sir, the section as it stands is to this effect. A borrower to whom a statement of accounts has been furnished under section 25 shall not be bound to acknowledge or deny its correctness, and his failure to do so shall not by itself, be deemed to be an admission of the correctness of the account.

Section 25 lays down that the creditor shall give all the numerous accounts to the debtor and the debtor accepts that but keeps silent over it. Ordinarily, in every other case, when a person receives a letter from his opponent and he does not reply, it gives rise to a presumption against his conduct. But in this particular case, the creditor gives the debtor detailed accounts of various kinds and asks the latter to accept them. The debtor does not object by even saying that in this particular respect, the accounts are wrong and so on. He is silent. His failure to acknowledge or deny its correctness does not involve him

in any consequence at all. Therefore, I suggest that the ordinary rule in the law should be that failure to do so will raise a rebuttable presumption about the correctness of the account. If my amendment is accepted, it will do him no harm but it will have this effect that the ordinary rule will have its play. There is no reason why the ordinary rule should not hold good in a case between the creditor and the debtor.

Mr. PRESIDENT: Amendment moved: that in clause 26 of the Bill, for all the words beginning with "and his failure" appearing in line 3 up to the end of the clause, the following, be substituted, namely:—

"but his failure to do so will raise a rebuttable presumption about the correctness of the account."

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I am surprised that an experienced lawyer like Rai Bahadur Satis Chandra Mukherji can make a proposal like this. Suppose, an account is sent to the borrower. The borrower receives it and my friend wants to say that the receipt of the account should dispense with the plaintiff proving his case in the Court. I do not believe any lawyer can put forward a proposal like this. All that has been said in this clause is that if a lender sends his account and the borrower receives it, that will not mean that the borrower has accepted the accuracy of the account. The accuracy of the account must be proved by the lender if he goes to the Court in the ordinary way. Simply sending of account cannot dispense with the evidence which a plaintiff will have to produce to prove his case in the Court of law. I hope my friend will withdraw his motion.

Mr. PRESIDENT: The question before the House is: that in clause 26 of the Bill, for all the words beginning with "and his failure" appearing in line 3 up to the end of the clause, the following, be substituted, namely:—

"but his failure to do so will raise a rebuttable presumption about the correctness of the account".

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is that clause 26 stand part of the Bill.

(The motion was agreed to.)

Clause 27.

Mr. PRESIDENT: Clause 27 stand part of the Bill.

Rai SATIS CHANDRA MUKHERJI Bahadur: Sir, I beg to move that clause 27 of the Bill be omitted,

Sir, clause 27 of the Bill runs thus: Notwithstanding anything contained in any law for the time being in force, in any suit to which this Act applies—

(*a*) a Court shall, before deciding the claim on merits, frame and decide the issue whether the money-lender has in respect of the claim in suit complied with the provisions of sections 24 and 25; and

(*b*) if the Court finds that the provisions of either of the said sections have not been so complied with, it may, if the plaintiff's claim is established either wholly or in part, disallow the whole or any portion of the interest found due as may, in the circumstances of the case, appear reasonable to the Court, and may also disallow costs, or in computing the amount of interest due upon the loan, the Court may exclude any period for which the money-lender omitted to comply with the provisions of either of the said sections:

Provided that if the money-lender has, after the time specified in the said sections, given the receipt or furnished the statement, as the case may be, and if he satisfies the Court that he had sufficient cause for not doing so earlier, the Court may include any such period in computing the interest.

Sir, we have found that clause 26 of the Bill means that even non-acknowledgment of the receipt of this will entail no consequence on the debtor. But the drastic provision is made in the Bill that if the creditor fails to supply the debtor with a statement of his accounts or at a time when the loan is advanced a statement of the condition of the loan and a complete receipt, his action is visited with these consequences. I submit that having regard to the other stringent provisions in the Bill, such drastic action as provided in this clause is uncalled for and unnecessary and will be simply harassing the creditors. Dishonest debtors will often take advantage of this clause in order to put the creditors to trouble.

Mr. PRESIDENT: Amendment moved: that clause 27 of the Bill be omitted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose it.

Mr. PRESIDENT: The question before the House is: that clause 27 of the Bill be omitted.

(The amendment was negatived.)

Mr. MESBAHUDDIN AHMED: Sir, I beg to move that in clause 27 of the Bill, in sub-clause (*a*), after the words "claim on" in line 1, the word "its" be inserted.

Mr. PRESIDENT: Amendment moved: that in clause 27 of the Bill, in sub-clause (*a*), after the words "claim on" in line 1, the word "its" be inserted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is that in clause 27 of the Bill, in sub-clause (*a*), after the words "claim on" in line 1, the word "its" be inserted.

(The amendment was agreed to.)

Rai SATIS CHANDRA MUKERJI Bahadur: Sir, I beg to move that for sub-clause (*b*) of clause 27 of the Bill, the following be substituted, namely:—

"(*b*) if the court finds that the provisions of either of the said sections have not been so complied with it may, if the plaintiff's claim is established either wholly or in part, disallow such portion of costs as it thinks fit".

Sir, the clause as it stands to-day proposes to penalise the default of the creditor in any of these two ways, namely, that a Court can disallow the whole or any portion of the interest found due as may, in the circumstances of the case, appear reasonable and may also disallow costs. And what for? For the simple reason that this man has omitted to furnish the debtor that account. As a matter of fact, the law creates this to be a default. I take it that this is a default. The next point is whether the default is of such an enormous nature that it shall be penalised in the two ways that the Bill proposes to do, namely, that it shall disallow interest as well as the costs. I am submitting that the default is of such a trivial nature that he may be punished by disallowing such costs as the Court may think fit, and not by disallowing interest.

Mr. PRESIDENT: Amendment moved: that for sub-clause (*b*) of clause 27 of the Bill, the following be substituted, namely:—

"(*b*) if the court finds that the provisions of either of the said sections have not been so complied with, it may, if the plaintiff's claim is established either wholly or in part disallow such portion of costs as it thinks fit".

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose it.

Mr. PRESIDENT: The question before the House is: that for sub-clause (*b*) of clause 27 of the Bill, the following be substituted, namely:—

"(*b*) if the court finds that the provisions of either of the said sections have not been so complied with, it may, if the plaintiff's claim is established either wholly or in part, disallow such portion of costs as it thinks fit."

(The amendment was negatived.)

Mr. MESBAHUDDIN AHMED: Sir, I beg to move that in clause 27 of the Bill, in sub-clause (*b*), for the word "any" appearing at the end of line 4, the word "such" be substituted.

Mr. PRESIDENT: Amendment moved: that in clause 27 of the Bill, in sub-clause (*b*), for the word "any" appearing at the end of line 4, the word "such" be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is that in clause 27 of the Bill, in sub-clause (*b*), for the word "any" appearing at the end of line 4, the word "such" be substituted.

(The amendment was agreed to.)

Rai Sahib INDU BHUSAN SARKAR: Sir, I beg to move that at the end of the proviso to clause 27 of the Bill, the words "and may allow costs" be added.

In the proviso to clause 27, it is provided that if the money-lender has, after the time specified in the said sections, given the receipt or furnished the statement, as the case may be, and if he satisfies the

Court that he had sufficient cause for not doing so earlier, the Court may include any such period in computing the interest and may allow costs. I like to add the words "and may allow costs".

Sir, I cannot understand the difference in the treatment of debtors and creditors. In the case of debtors, it has been provided in clause 27 (*b*) that if the Court finds that the provisions of either of the said sections have not been so complied with, it may, if the plaintiff's claim is established either wholly or in part, disallow the whole or any portion of the interest found due as may, in the circumstances of the case appear reasonable to the Court, and may also disallow costs. Here it says that the Court may disallow costs.

Mr. PRESIDENT: Order, order. The Council stands adjourned till 2-15 p.m. on Thursday.

Adjournment.

The Council then adjourned till 2-15 p.m. on Thursday, the 11th January, 1940.

Members Absent.

The following members were absent from the meeting held on the 10th January, 1940:—

(1) Rai Bahadur Keshab Chandra Banerjee

(2) Rai Bahadur Manmatha Nath Bose.

(3) Mr. Humayun Reza Chowdhury.

(4) Mr. Narendra Chandra Datta.

(5) Khan Bahadur S. Fazal Ellahi.

(6) Khan Bahadur Alhaj Khwaja Muhammad Esmail.

(7) Nawabzada Kamruddin Haider.

(8) Alhaj Khan Bahadur Shaikh Muhammad Jan.

(9) Rai Bahadur Radhica Bhusan Roy.

(10) Mr. Sachindra Narayan Sanyal.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Thursday, the 11th January, 1940, at 2-15 p.m. being the twenty-third day of the Third Session, pursuant to section 62(2) (a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Railway train demonstration for mass education in Bengal.

135. Rai Sahib INDU BHUSAN SARKER: (a) Is the Hon'ble Minister in charge of the Education Department aware that Rai Bahadur A. K. Gupta, District Traffic Superintendent, Eastern Bengal Railway, innovated a very popular scheme in Bengal for educating the public through the medium of demonstrations from railway trains and that it was accepted by the Government and also by the Railway Board?

(b) Is the Hon'ble Minister aware that the authorities of the Eastern Bengal Railway gave effect to this scheme in 1927 or so, in co-operation with the Nation-Building Departments of the Government and made arrangements to run a train well-equipped with instructive exhibits which were explained to millions of people by the officers of the respective Nation-Building Departments with great success?

(c) Does the Hon'ble Minister propose to move the authorities of the Eastern Bengal Railway to introduce such demonstrations again and ask all the heads of the Nation-Building Departments to co-operate with them for spreading mass education in Bengal?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Mr. A. K. Fazlul Huq): (a) and (b) Yes.

(c) I will consider the matter.

Requirements of the Chittagong College.

136. Mr. NUR AHMED: (a) Will the Hon'ble Minister in charge of the Education Department be pleased to state if his attention has been drawn to the suggestions made in Quinquennial Review on the progress of education in Bengal for the years 1932-33 to 1936-37 regarding the requirements of the Chittagong College? If so, what are those suggestions?

(*b*) What steps have been taken to remove these wants of the College?

(*c*) Is it a fact that the Governing Body of the College have submitted proposals for larger accommodation, affiliation in Botany, rebuilding of the College House and the improvement of the laboratory? If so, is the necessary money being provided in the next year's budget estimates? If not, why not?

(*d*) Is it a fact that a complete scheme for opening a second grade I.A. College for girls at Chittagong has been submitted by the Director of Public Instruction? If so, is the Government going to provide necessary funds for the same in the budget estimates of the next year?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Mr. A. K. Fazlul Huq): (*a*) Yes. The suggestions referred to will be found on page 79 of the Report, a copy of which is laid on the table.

(*b*) The matter is receiving attention.

(*c*) Yes. The proposals are under examination and so no provision can be made in next year's budget.

(*d*) Yes. The scheme is under examination and so no provision can be made in next year's budget.

Statement referred to in the reply to clause (a) of question No. 136.

EXTRACT FROM THE NINTH QUINQUENNIAL REVIEW ON THE PROGRESS OF EDUCATION IN BENGAL.

CHITTAGONG COLLEGE: * * * With the improvement in the political situation in the district, more students are seeking admission to the college every year and the provision of a Hindu hostel has now become an urgent need of the college.

* * * * *

The college was also understaffed in the Arabic and Persian Departments. Though there has been an insistent demand for the affiliation of the college up to the Honours Standard in Economics in B.A. and Civics in the Intermediate Classes, it was not possible to obtain affiliation in these subjects. It is perhaps also desirable that the only first grade Government college in Eastern Bengal should teach Physics, Chemistry, and Botany up to the Honours Standard in the B.Sc. Examination.

* * * * *

The library was in every way unsuitable for a first grade college. The laboratories also require new apparatus. The ancient gas plant of the college was a source of great trouble to the college. It needed constant repairs, the cost of which was not inconsiderable; and laboratory work was held up to some extent during the period that it was being patched up. The college buildings are unsuitable for the college and inadequate for its present needs.

Mr. NUR AHMED: Arising out of answers (*c*) and (*d*), will the Hon'ble Minister be pleased to state when the Government are expected to reach a final decision in the matter?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It is very difficult to give any definite date, but it may be done as soon as possible.

Appointment of a Superintendent in The Lady Brabourne College Hostel.

Khan Bahadur Maulvi MUHAMMAD IBRAHIM (on behalf of Khan Bahadur Mukhlesur Rahman): (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state—

(*i*) whether there is any Superintendent in The Lady Brabourne College Hostel;

(*ii*) if not, how it is being run and managed;

(*iii*) whether there is anyone in charge of the Hostel; and

(*iv*) if so, what is her qualification and what pay she receives?

(*b*) Is the Hon'ble Minister aware—

(*i*) that both the quality and quantity of food given to the boarders are bad, insufficient and detrimental to their health;

(*ii*) that only three-fourths of a seer of fish and the same quantity of meat are given to twenty boarders in the morning and in the evening respectively; and

(*iii*) that the health of the girls is deteriorating rapidly as a consequence of the kind of food given?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Mr. A. K. Fazlul Huq): (*a*) (*i*) No. The question of appointment of a Superintendent is under the consideration of Government. A Superintendent will be appointed as soon as a suitable candidate is available.

(*ii*) to (*iv*) An experienced Matron is temporarily in charge of the Hostel. She is in the scale of Rs. 35—3/2—50.

(*b*) No.

Mr. HUMAYUN KABIR: Arising out of (*iv*), will the Hon'ble Minister be pleased to state why there has been no answer to the question as regards the qualification of the lady?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I could not quite follow the question.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state if the only qualification which this lady has is her experience?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I ask for notice.

Mr. HUMAYUN KABIR: On a point of appeal to you, Sir. The question is already there, and it is not for the Hon'ble Minister now to ask for notice because notice was given 15 days ago.

Mr. PRESIDENT: Order, order. When a particular Minister happens to be absent, if notice is given to the President, the questions which relate to his department may be postponed for the day. I have found that hon'ble members sometimes do not get proper answers to their supplementary questions. It is not possible for any other Minister to give replies all of a sudden. So, I shall accept the procedure of postponing the particular question, if I am informed earlier that a particular Minister will not be coming.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Thank you, Sir.

The Bengal Money-lenders Bill, 1939.

Mr. PRESIDENT: The House will now resume further consideration of the Bengal Money-lenders Bill, 1939. For the present, I shall not take the amendments to clauses 28 and 29 which are connected with promissory notes. So, we shall begin with clause 30.

Clause 30.

Mr. PRESIDENT: Clause 30 stand part of the Bill.

Mr. NUR AHMED: Sir, I beg to move that in clause 30 of the Bill, after the words "being in force" in line 2, the words "or in anything having force of law", be inserted.

Sir, this amendment is necessary for making clear the meaning of that section.

Mr. PRESIDENT: Amendment moved: that in clause 30 of the Bill, after the words "being in force" in line 2, the words "or in anything having force of law", be inserted.

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: Sir, I suggest that the consideration of this amendment be postponed.

Mr. PRESIDENT: All right, it is postponed.

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I beg to move that in sub-clause (*1*) (*a*) of clause 30 of the Bill, the words "together with any amount already paid or included in any decree in respect of a loan" appearing in lines 2 to 4, be omitted.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) (*a*) of clause 30 of the Bill, the words "together with any amount already paid or included in any decree in respect of a loan" appearing in lines 2 to 4, be omitted.

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: Sir, I beg to oppose the motion.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*) (*a*) of clause 30 of the Bill, the words "together with any amount already paid or included in any decree in respect of a loan" appearing in lines 2 to 4, be omitted.

(The amendment was negatived.)

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I beg to move that in sub-clause (*1*) (*a*) of clause 30 of the Bill, the words "or included in any decree" appearing in line 3, be omitted.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) (*a*) of clause 30 of the Bill, the words "or included in any decree" appearing in line 3, be omitted.

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: Sir, I oppose the motion.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*) (*a*) of clause 30 of the Bill, the words "or included in any decree" appearing in line 3, be omitted.

(The amendment was negatived.)

Rai Sahib INDU BHUSAN SARKAR: Sir, I beg to move that in sub-clause (*1*) (*b*) of clause 30 of the Bill, the words "outstanding on such date" appearing at the end, be omitted.

Sir, the clause, as amended, will read thus:—

(*1*) No borrower shall be liable to pay after the commencement of this Act—

(*b*) on account of interest outstanding on the date up to which such liability is computed a sum greater than the principal.

Sir, my reason for moving this amendment is that a borrower might have paid interest which is equal to the principal. But still as time passes on, there might accrue a larger sum towards interest. So, if this be deleted, that difficulty will not arise.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) (*b*) of clause 30 of the Bill the words "outstanding on such date" appearing at the end, be omitted.

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: Sir, I oppose it.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*)(*b*) of clause 30 of the Bill, the words "outstanding on such date" appearing at the end, be omitted.

(The amendment was negatived.)

Raja BHUPENDRA NARAYAN SINHA Bahadur of Nashipur: Sir, I beg to move that in sub-clause (*1*) (*c*) of clause 30 of the Bill, in paragraph (*i*), for the word "ten", the word "twelve" be substituted.

Sir, my reason for moving this amendment is that in the case of unsecured loans the man who advances money has to do so at a great risk, and the prevalent rate is more than ten per cent. Therefore, the fair rate of interest would be 12 per cent. instead of 10.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) (*c*) of clause 30 of the Bill, in paragraph (*i*) for the word "ten", the word "twelve" be substituted.

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: Sir, I oppose it.

Mr. PRESIDENT: The queston before the House is: that in sub-clause (*1*) (*c*) of clause 30 of the Bill, in paragraph (*i*), for the word "ten", the word "twelve" be substituted.

(The amendment was negatived.)

Mr. AMULYADHONE RAY: Sir, I beg to move that in sub-clause (*1*) (*c*) of clause 30 of the Bill, in paragraph (*i*), for the word "ten", the word "nine" be substituted.

Sir, I am myself hesitating if I shall dwell at length on this amendment in the midst of this dull and lifeless debate over such an important and controversial subject as the Money-lenders Bill. Sir, my hesitancy has been increased by the attitude of the Hon'ble Minister in charge of the Bill by his curt reply "I oppose it" or "I accept it". Again, Sir, the statement "I oppose it" invariably follows amendments sponsored by the Opposition with one solitary exception. But, Sir, the statement "I accept it" is being repeated when in most cases the amendments are coming from the Coalition Benches.

Sir, in other countries where parliamentary system has grown and developed, the Opposition is consulted and many of their wishes are respected. But, Sir, here the Ministers do not owe their stability to the vote of the children of the soil. They naturally look for their guidance, control and reasoning from other quarters. With this observation regarding the attitude of the Hon'ble Minister, I want to make absolutely clear the position of the Congress Party in this respect. The Congress has never lagged behind and will never lag behind so far as this Bill is concerned and hence, Sir, I have tabled this amendment.

With regard to the rate of interest, it has been said by the Registrar of the Co-operative Societies that under the present circumstances, the poor cultivators are unable to pay interest at more than 7½ per cent. However, Sir, knowing full well that if I take up that position my contention will not prevail, I have tabled an amendment which says that at least 9 per cent. interest should be provided.

With these words, Sir, I commend my motion to the acceptance of the House.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*)(*c*) of clause 30 of the Bill, in paragraph (*i*), for the word "ten", the word "nine" be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose the amendment. I have been charged by my friend for being very brief in my reply. Probably this is not in keeping with the mode in which my friend wants to dispose of the matter. My friend is usually in the habit of lengthening his speech which can be condensed in one or two words. If he asks me to follow him, I believe the time

that will be taken up for finishing this Bill will be months and months. So, I hope I may be pardoned that I cannot accept his advice in this matter.

Then, he claimed that the Congress was prepared to help the poor debtors more than the Coalition Party. I hope that he will show this attitude at the right time and in the right place. But this is not the place where I can agree with him. I think that we have tried our best to be as much reasonable as possible. After very careful consideration the Lower House as well as the members of the Coalition Party are of opinion that 10 per cent. should not be reduced. But on a consideration of all points of view, both the Lower House as well as members of the Coalition Party were of opinion that it should stand as it is. I hope that the reason that I have given to my friend will convince him that we are really serious in this matter. We do not like to earn cheap popularity in the country. We are trying to do our little bit but it is not to get popular applause that we are doing it. We are doing this just for the sake of duty and nothing else.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*) (*c*) of clause 30 of the Bill, in paragraph (*i*), for the word "ten", the word "nine" be substituted.

(The amendment was negatived.)

Mr. AMULYADHONE RAY: Sir, I beg to formally move that in sub-clause (*1*) (*c*) of clause 30 of the Bill, in paragraph (*ii*), for the word "eight", the words "seven and a half" be substituted.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) (*c*) of clause 30 of the Bill, in paragraph (*ii*), for the word "eight", the words "seven and a half" be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I formally oppose it.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, we on this side of the House would very much welcome reduction of the rate of interest, if possible, still below 7½ per cent. We may probably go down to 3 per cent. or even without any interest, if possible. But knowing the condition of the country as we do, we think that the provision that we have made here will tend to dry up agricultural credit in the mufassil area; and if we go further, the agriculturists will practically be left without any credit at all. That is why, having regard to all these matters, we have fixed this rate. Otherwise, we would have gone further than what has been suggested in this sub-clause. With these words, Sir, I oppose the motion.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I rise also to add my voice in opposition. When I heard my honourable friend speaking on the previous amendment, I thought that he was delivering an oration as if he was moving an adjournment motion. I soon realised that he was only trying to reduce the rate of interest by half per cent. his amendment being just half per cent. less than the figure in the Bill clause. His superiority over us in the matter of patriotism and public spirit amounts to a half per cent.; if that generous feeling gives him any pleasure, let him enjoy it. But I believe there is something more behind this amendment than a pious wish. It is that he knows that this reduction of the rate will spoil the Bill and mar the effect of the work that we have done. By moving this amendment, he believes that he will earn cheap popularity in the country. I submit, Sir, that in these circumstances his love for his fellow-people to the extent of half per cent. is not much appreciated. Eight per cent. is low enough and we cannot agree to reduce it any further. If my friend has more money to lend at 7½ per cent. or less, we will be very glad to borrow from him. But the Bill only provides the maximum rate and no one can prevent any body lending at a lower rate. We are not going to reduce the maximum that the Bill provides.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*) (*c*) of clause 30 of the Bill, in paragraph (*ii*), for the word "eight", the words "seven and a half" be substituted.

(The amendment was negatived.)

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I beg to move that in paragraph (*ii*) of sub-clause (*1*) (*c*) of clause 30 of the Bill, for the word "eight", the word "ten" be substituted.

Sir, the rate for secured loans sometimes rises to 12 per cent. by the natural operation of the Calcutta market. The rate of eight per cent. will then cause serious loss and damage to lenders. By striking a mean between the rate proposed and the rate often reached, we may take 10 per cent. as the maximum rate. Generally, the rate is much lower but we should fixe the maximum so that there cannot be any loss to trade and commerce at any time. I, therefore, propose this amendment.

Mr. PRESIDENT: Amendment moved: that in paragraph (*ii*) of sub-clause (*1*) (*c*) of clause 30 of the Bill, for the word "eight", the word "ten" be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose it.

Mr. PRESIDENT: The question before the House is: that in paragraph (*ii*) of sub-clause (*1*) (*c*) of clause 30 of the Bill, for the word "eight", the word "ten" be substituted.

(The motion was negatived.)

Rai Sahib INDU BHUSAN SARKAR: Sir, I beg to move that in sub-clause (*1*) (*c*) of clause 30 of the Bill, in paragraph (*ii*), for the word "eight", the word "nine" be substituted.

Sir, it is a modest amendment, and in support of that I may take some time to substantiate my argument. Under the existing Act the maxima have been fixed at 25 per cent. and 15 per cent. respectively in the case of unsecured and secured loans. The rate of interest to be charged on any particular loan cannot ordinarily be an absolute figure, fixed without any reference to the risk taken by the lender in investing his money. It is only a truism to say that the rate of interest has to be determined not merely by a consideration of the service of the money lent but also by the element of the risk involved in the operation of lending. It is not unoften the case that losses due to non-realisation virtually reduces the average rate of interest from the nominally high figure to a much lower level. In practical life, we find that although money may be advanced at a higher rate of interest, a portion of it is not realised which becomes a bad debt, and then the real rate of interest falls lower than the prescribed rate. Due regard must also be paid to the question of available sources and supply of rural credit. As my friend Khan Bahadur Saiyed Muazzamuddin Hosain has pointed out, in the matter of fixing the maximum rates of interest that may be charged under law, adequate consideration should be bestowed on the state of the money market and the interest rates that usually obtain in such market. There is no finality in fixing maximum rates of interest. The rates of interest should fluctuate according to market conditions and be variable. In my opinion, the rates of interest permissible should be linked to the bank rate for the time being. In times of dearth of money, the rates proposed in the Bill are likely to prove ineffective. Again, in time of War, such rates would not be quite appropriate. The last War was accompanied by a great rise in interest rates. It is not unreasonable to expect that similar rise would also occur during the present War. Moreover, any attempt to bring about a drastic reduction of interest rates in rural areas, in disregard of the rates current in urban areas, would only result in accelerating the progress of urbanising the investments of money-lenders to the ultimate detriment of the borrowing agriculturists.

It was presumably this consideration which weighed with the Reserve Bank in their suggestion that the statutory maximum rates of interest on unsecured and secured loans should not be lower than 18 and 10 per

cent. respectively. Formerly, the rates were 25 per cent. and 15 per cent. with regard to unsecured and secured loans respectively. All on a sudden there is this big drop. As the Minister in charge remarked that to gain cheap popularity should not be our aim. We should be consistent with the prevalent rate of the market; otherwise, credit facilities in rural areas will be choked. They are almost choked owing to the introduction and operation of the Debt Settlement Boards. However, in order to do away with the risk of unconscionable and usurious rates being charged, I propose that the rates should be raised to 9 per cent. instead of 8 per cent. in the case of secured loans.

With these words, Sir, I move this amendment for the acceptance of the House. I also request the Hon'ble Minister in charge of the Bill to reconsider the matter. Our main object is to help the poor agriculturists in their times of difficulties. Therefore, Sir, we should not prescribe such a rate as will really be detrimental to their interests. If that is fixed, they will not be able to get any money and thus fall into difficulties. As I have already explained, if there be no temptation regarding the investment on money-lending, considering the risks involved in it and also the bad debts which will surely have to be faced in the money-lending business, some latitude should be given to the money-lenders, so that they can invest their money when the poor agriculturists are in need.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) (*c*) of clause 30 of the Bill, in paragraph (*ii*), for the word "eight", the word "nine" be substituted.

Mr. HUMAYUN KABIR: Mr. President, Sir, I beg to oppose this amendment and I do not think after what Mr. Sarkar has himself said, many words are necessary. He has himself said that there should be a difference between the rates of interest on secured and unsecured loans. Now, the difference between the rates of interest in the case of secured and unsecured loans is only 2 per cent., and in order to establish that the difference should be great, he proposes to decrease it to 1. I do not understand what is the logic behind it, for if it is a fact that in the case of secured loans the same amount of interest is not necessary, the movement should be in the contrary direction. If we have the rate of interest on unsecured loans at 10 per cent., in the case of secured loans the rate of interest should not exceed 5 per cent. or perhaps at the most 6¼ per cent. I do not understand how, on the premise which Mr. Sarkar has himself suggested, he has now moved that in the case of secured loans the rate of interest should be higher. I think, thesefore, Sir, that his own speech is a refutation of his amendment.

Rai Sahib INDU BHUSAN SARKAR: On a point of personal explanation, Sir.

Mr. PRESIDENT: Order, order. Under the guise of personal explanation, you cannot reply to the speech of the hon'ble member.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose the motion and I hope my friend Mr. Humayun Kabir will help me also in the case of other amendments in this way.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*) (*c*) of clause 30 of the Bill, in paragraph (*ii*), for the words "eight", the word "nine" be substituted.

(The amendment was negatived.)

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I beg to move that in sub-clause (*1*) of clause 30 of the Bill, all the words beginning with "whether" appearing in line 16 up to the end of the sub-clause, be omitted.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) of clause 30 of the Bill, all the words beginning with "whether" appearing in line 16 up to the end of the sub-clause, be omitted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose the motion.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*) of clause 30 of the Bill, all the words beginning with "whether" appearing in line 16 up to the end of the sub-clause, be omitted.

(The amendment was negatived.)

Rai Sahib INDU BHUSAN SARKAR: Sir, I beg to move that in sub-clause (*1*) of clause 30 of the Bill, for the words "whether such loan was advanced or such amount was paid or such decree was passed or such interest accrued before or" appearing in lines 16 to 18, the words "when such loan was advanced" be substituted.

Sir, clause 30 of the Bill contains provisions which impose limitations on the amount and the rate of interest recoverable. As regards the amount of interest recoverable in the future, there can, on principle, be little objection to the provisions of this clause. But to the extent

this clause affects past agreements, it is open to serious objections. The provisions of this clause should be read with provisions of clause 35, which relates to the reopening of transactions. Clause 35 (*1*) (*c*) and (*d*) provides for the refund of interest paid or allowed in excess of limits provided in clause 30. The fixation of maximum rates undoubtedly increases the unfairness of ordering refunds. Apart from the question of refund, the provisions of clause 30 of the Bill result in the disappearance of the lender's capital in the case of long term loans. The effect of this clause would, therefore, be a forcible expropriation of creditors' property for the benefit of debtors.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) of clause 30 of the Bill, for the words "whether such loan was advanced or such amount was paid or such decree was passed or such interest accrued before or" appearing in lines 16 to 18, the words "when such loan was advanced" be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I beg to oppose the motion. This is the principle that has been accepted after due consideration. It has been accepted in Bihar. I see no reason why we should not persist in this principle.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*) of clause 30 of the Bill, for the words "whether such loan was advanced or such amount was paid or such decree was passed or such interest accrued before or" appearing in lines 16 to 18, the words "when such loan was advanced" be substituted.

(The amendment was negatived.)

Rai SATIS CHANDRA MUKHERJI Bahadur: Sir, I beg to move that sub-clause (*2*) of clause 30 of the Bill, be omitted.

Sir, I am rather put in a very awkward position by the postponement of the consideration of the motion Nos. 514-19.

Mr. PRESIDENT: The consideration of this amendment is also postponed.

Mr. MESBAHUDDIN AHMED: Sir, I beg to move that in clause 3 of the Bill, after sub-clause (*2*), the following new sub-clause be inserted, namely:—

"(*3*) A lender shall be entitled to institute a suit at any time after the commencement of this Act in respect of a transaction to which either or both of the preceding clauses applies or apply."

Mr. PRESIDENT: Amendment moved: that in clause 30 of the Bill, after sub-clause (*2*), the following new sub-clause be inserted, namely:—

"(*3*) A lender shall be entitled to institute a suit at any time after the commencement of this Act in respect of a transaction to which either or both of the preceding clauses applies or apply."

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that in clause 30 of the Bill, after sub-clause (*2*), the following new sub-clause be inserted, namely:—

"(*3*) A lender shall be entitled to institute a suit at any time after the commencement of this Act in respect of a transaction to which either or both of the preceding clauses applies or apply."

(The amendment was agreed to.)

Clause 31.

Mr. PRESIDENT: Clause 31 stand part of the Bill.

Rai SATIS CHANDRA MUKHERJI Bahadur: Sir, I beg to move that for clause 31 of the Bill, the following be substituted, namely:—

"31. Notwithstanding anything contained in any law for the time being in force, no court shall in any decree passed in any suit to which this Act applies, allow interest exceeding six per cent. per annum of the sum decreed."

Sir, the present law runs thus:

"Notwithstanding anything contained in any law for the time being in force, no Court shall, in any decree passed in any suit to which this Act applies—

(*a*) if the loan to which the decree relates was advanced before the commencement of this Act, allow any interest on the decretal amount, or

(*b*) if the loan to which the decree relates was advanced after the commencement of this Act, allow any interest other than interest not exceeding six per centum per annum on the principal sum adjudged."

Now, Sir, I do not follow the discrimination that has been made between loans advanced before and loans advanced after the commencement of this Act. Clause 30 makes the rate of interest provided in

this section applicable to loans both before and after. So, the question of rate of interest after the decree is also regulated by the Civil Procedure Code and it provides for 6 per cent. which is the usual rate. In clause 31, if the Legislature wants to provide rate of interest at 6 per cent. on loans given subsequent to the present Act, I do not at all understand why the same relief should not be given to the creditors whose loans were given before the commencement of this Act. The distinction is without difference, and so I move this amendment.

Mr. PRESIDENT: Amendment moved: that for clause 31 of the Bill, the following be substituted, namely:—

"31. Notwithstanding anything contained in any law for the time being in force, no court shall in any decree passed in any suit to which this Act applies, allow interest exceeding six per cent. per annum of the sum decreed".

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose this motion. When my friend is suggesting that there should be a uniform rate of interest on the decretal amount, he is forgetting the economic condition in the country ruling now. For the last 10 years my friend knows that owing to the economic crisis that the country is passing through, a lot of people are absolutely penniless now. In order to give some relief to this class of people, the Lower House decided that in the case of past loans no interest should be allowed on the decretal amount. My friend ought to know that a lot of these loans now belongs to some of the defunct banks and that they are not paying any interest to their debtors, i.e., the depositors, and they have ceased to pay interest for the last 7 or 8 years. How can my friend seriously contend that those people who are not paying any interest to their creditors should be allowed to earn interest even when the amount has been decreed. If the country did not suffer from this economic crisis, no economist even of the type of my friend Mr. Mukherji would have suggested that a principle like this should be accepted. But the country is in such a helpless condition, the people are in such great difficulty that if after allowing sufficient interest to accumulate and to be decreed upon we say that no respite should be given to the existing debtors, we will be doing wrong to the country. Then, as regards the future, there is no justification for anybody to suggest that no interest should be given in future on the decretal amount, because anybody who now invests money knows fully well that he is to regulate his affairs in a certain way. After this money is lent, the money-lender should not be precluded from receiving interest not on the decretal amount but on the principal he advances. So, this is the reason why we have put in this principle in the Bill. Although apparently it seems to be conflicting, yet having regard to

the condition of the country and the serious difficulty which every class of people is now undergoing, I think that no body can say that we are doing wrong to any class of people. I, therefore, hope that my friend will understand the position and will try to accommodate himself to the course adopted in the Bill.

Rai Sahib INDU BHUSAN SARKAR: Sir, there is an amendment standing in my name, namely, Nos. 533-34 which is almost the same as the one moved by Rai Satis Chandra Mukherji Bahadur just now. May I speak on that motion?

Mr. PRESIDENT: Yes, you may.

Rai Sahib INDU BHUSAN SARKAR: Thank you, Sir. I would like to delete paragraphs (*a*) and (*b*) of clause 31 and substitute in their place after the word "applies" in line 3, the following words:—

> "allow such interest on the decretal amount not exceeding six per cent. per annum as the court shall think fit".

Sir, the Rai Bahadur spoke very elaborately on the matter, and my point is that this clause provides for non-payment of interest on the decretal amount of past loans though provision has been made in the Bill at the same time for payment of the debt by annual instalments which may extend up to 20 years. But if the loan to which the decree relates was advanced after the commencement of the Act, an interest not exceeding 6 per cent. per annum on the principal adjudged may be allowed. There is no reason why a 6 per cent. rate of interest should not be allowed in the case of past loans also. To disallow payment of interest on decretal amount is to give a premium on default of payment.

There is one thing, Sir, to which I would like to draw the attention of the House. The Nawab Saheb says that if one lends his own money he will not have to pay interest for the money already paid because it has already accrued interest. But generally in the case of loans which are advanced in cities, we have seen that people take money by pledging Government securities and other valuables in the bank and they get money at 3 or 4 per cent. interest and they invest the same at 6, 7 or even 8 per cent. according to their condition. Now, Sir, if a decree is passed without any interest, then he will have to bear the interest payable to the bank from which he took the loan and he will not be entitled to any interest on the decretal amount. Thus it will cause great hardship to him at the time of taking a loan from the bank. It may take 20 years or something like that to repay the decretal amount on the part of the borrower. The result will be that the money-lending business which means profiteering will not be applicable and in that case rural credit will be choked.

Dr. RADHA KUMUD MOOKERJI: Nobody wants money-lenders!

Rai Sahib INDU BHUSAN SARKAR: I am not anxious for the money-lenders, but the poor agriculturists will be put to difficulty as they will not be able to procure any loan. Of course, if the agriculturists say that they do not want any loan,—if that be the case,—I do not want to say anything.

One thing more I would like to say. It will be seen that in business also for instance in the matter of payment of electricity charges some concession, or rebate as it is called, is given when the dues are paid within a certain limited period. This practice may also be followed in the case of interest on loans. Then the debtor will surely out of fear for additional payment will make payment regularly. Of course there is a provision that if one defaults in payment of an instalment he will have to pay interest. One thing is, Sir, that if the amendment is accepted he will have to pay interest after the decree. He will surely try his best to clear out the decree. On the other hand, this will be of help to the borrowers also, because they may not have money always in their hands and when they have money they will make payment and clear up their dues. So, I think, Sir, that for both these purposes, the proposed interest clause should be inserted here as suggested.

Mr. PRESIDENT: The question before the House is: that for clause 31 of the Bill, the following be substituted, namely:—

"31. Notwithstanding anything contained in any law for the time being in force, no court shall in any decree passed in any suit to which this Act applies, allow interest exceeding six per cent. per annum of the sum decreed".

(The amendment was negatived.)

Mr. KAMINI KUMAR DUTTA: Sir, my amendments Nos. 535-538 and 541-544 are connected, being amendments of the same class. With your permission, I shall move them together.

Mr. PRESIDENT: Yes.

Mr. KAMINI KUMAR DUTTA: Sir, I beg to move that in sub clause (*a*) of clause 31 of the Bill, after the words "before the commencement of this Act" in line 2, the word "ordinarily" be inserted, and that in sub-clause (*31*) of the Bill, after the words "interest on the decretal amount" in line 3, the words "which if allowed shall in no case exceed six per centum per annum on the principal sum adjudged" be inserted.

My amendments really resolve to this—

"(a) If the loan to which the decree relates was advanced before the commencement of this Act, allow ordinarily any interest on the decretal amount which if allowed shall in no case exceed six per centum per annum on the principal sum adjudged".

In the clause as it stands at present, it is said that no court shall in passing any decree allow any interest. I wish to add the word "ordinarily" after the word "allow". That is, the principle of this clause I retain, namely, that ordinarily interest will not be allowed; but at the same time the intent of my amendment is that the hands of the Court should not be fettered altogether. There may be cases in which the Court may think it just and equitable to allow some interest. Therefore, my amendment is this: that ordinarily interest ought not to be allowed but if there are exceptional cases in which the Court thinks it fit to allow interest, in those cases the interest allowed should be on the principal sum adjudged and not on the decretal amount and the rate of interest should not exceed 6 per cent. per annum. So, really the whole principle underlying my amendment is this: I retain the spirit of this section that interest should not be ordinarily allowed. Only I wish to remove the fetters imposed upon the Court that if in any case, the Court thinks it fit to allow interest, the interest allowed should be on the principal sum adjudged and also to the extent of 6 per cent. per annum. This allowance of interest will also depend upon the discretion of the Court and the discretion of the Court is again controlled by the principle of this clause that ordinarily interest should not be allowed. This is the object of my amendment.

Mr. PRESIDENT: Amendment moved: that in sub-clause (a) of clause 31 of the Bill, after the words "before the commencement of this Act" in line 2, the word "rdinarily" be inserted and that in sub-clause (31) of the Bill, after the words "interest on the decretal amount" in line 3, the words "which if allowed shall in no case exceed six per centum per annum on the principal sum adjudged" be inserted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, the very reason which has been advanced by my friend Mr. Dutta I can make use of in opposing this amendment. My friend wants to leave the matter absolutely to the discretion of the Court. Sir, in some cases, we can rely upon the discretion of the Court and in many other cases we cannot rely upon the discretion of the Court. So, we want to lay down the principle that in certain cases the Court should be guided by the opinion of the Legislature. This is one of the cases where the view of the Legislature should prevail. As I said in my last speech, the economic crisis is responsible for the enunciation of this principle

and especially in the case of banks which have closed their doors and are not paying any interest to their creditors, the depositors. Their case was prominently before us and they should not under any circumstances be allowed to enjoy any interest when they are not paying interest to their customers. So, I hope my friend will think of the reason that has prompted us to come to this solution of the problem of economic distress and will pardon me if I differ from him in this aspect of the matter and oppose the amendment.

Rai Sahib INDU BHUSAN SARKAR: On a point of information, Sir. Will the Hon'ble Minister be pleased to enlighten me if there is any provision by which the creditor who borrows money from a bank or some other place and pays interest or a bank which pays interest to its depositors, will be allowed interest on the decretal amount?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: When I said that some of the defunct banks which were not paying interest themselves could not claim any interest from their debtors, I did not mean that that was the only case which induced us to provide for this clause. Really speaking, that was one of the several items which induced us to take up this attitude. As regards my friend's question, he ought to know that about Rs. 11 crores belonging to these different banks are now being realised and there may be some four or five banks now existing in Bengal who may be affected. But 600 banks that were in existence before are no longer in existence. So, I don't think that four or five banks which are still in existence care for the small amount that they may be precluded from realising.

Rai Sahib INDU BHUSAN SARKAR: One more question, Sir. Many of the 600 banks are in a moribund condition. Of these, many have taken shelter under section 153 of the Indian Companies Act, and they have been allowed a small rate of interest by the Hon'ble High Court. Will they be entitled to that?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: No.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*a*) of clause 31 of the Bill, after the words "before the commencement of this Act" in line 2, the word "ordinarily" be inserted, and that in sub-clause (*a*) of clause 31 of the Bill, after the words "interest on the decretal amount" in line 3, the words "which if allowed shall in no case exceed six per centum per annum on the principal sum adjudged" be inserted.

(The amendment was negatived.)

Rai Sahib JATINDRA MOHAN SEN: Sir, I formally move that in sub-clause (*a*) of clause 31 of the Bill, after the words "the decretal amount" appearing in the last line, the words "not exceeding 3 per centum per annum", be inserted.

This is a kindred amendment and this House had the opportunity of hearing arguments on both sides. Still, I formally move the amendment in view of the mandate of my constituency to place before the House an amendment like this. So, I formally move this amendment.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*a*) of clause 31 of the Bill, after the words "the decretal amount" appearing in the last line, the words "not exceeding 3 per centum per annum" be inserted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose it.

Mr. KADER BAKSH: Sir, I do not know whether the hon'ble mover of this amendment has got his mandate from the bank of which he is a Director or from the actual members who constitute that constituency. Had there been an occasion to ascertain the opinion of the members of the constituency, I could not have been left out. I should also have been invited. Whatever that may be, on the ground urged by the Hon'ble Minister in connection with the last motion, I oppose this amendment.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*a*) of clause 31 of the Bill after the words "the decretal amount" appearing in the last line, the words "not exceeding 3 per centum per annum" be inserted.

(The amendment was negatived.)

The question before the House is: that clause 31 stand part of the Bill.

(The motion was agreed to.)

Clause 32.

Mr. PRESIDENT: Clause 32 stand part of the Bill.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I would like to move my amendment with a slight alteration.

Mr. PRESIDENT: Is it a verbal alteration?

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Yes, Sir. Instead of moving the one which is printed in the Consolidated List, I would like to move that in clause 32 of the Bill, for the words "of such a loan" in line 6, the words "any loan repayable in kind" be substituted. The clause as it stands does not seem to include money loans repayable in kind. That is why the amendment is necessary.

Mr. PRESIDENT: Amendment moved: that in clause 32 of the Bill, for the words "of such a loan" in line 6, the words "any loan repayable in kind" be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that in clause 32 of the Bill, in the sixth line, for the words "such a loan", the words "any loan repayable in kind" be substituted.

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 32, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 33.

Mr. PRESIDENT: Clause 33 stand part of the Bill.

Dr. RADHA KUMUD MOOKERJI: Sir, may we know what has happened to amendment No. 547?

Mr. MESBAHUDDIN AHMED: Not moved.

Dr. RADHA KUMUD MOOKERJI: We did not hear it.

Mr. PRESIDENT: It is not the duty of the Chair to call out the name of the mover of each amendment. It is his own duty to rise in his place, if he wants to move his motion in the House.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I do not want to move amendment No. 547.

Mr. MESBAHUDDIN AHMED: Sir, I beg to move that in the proviso to clause 33 of the Bill, for the words "usual out of pocket" appearing in line 3, the words "necessary and incidental" be substituted.

Mr. PRESIDENT: Amendment moved: that in the proviso to clause 33 of the Bill, for the words "usual out of pocket" appearing in line 3, the words "necessary and incidental" be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that in the proviso to clause 33 of the Bill, for the words "usual out of pocket", appearing in line 3, the words "necessary and incidental" be substituted.

(The amendment was agreed to.)

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I beg to move that in the proviso to clause 33 of the Bill, for the words "out-of-pocket expense", appearing in lines 3 and 4, the following be substituted, namely:—

"Actual expenses out of pocket and the costs of searches for encumbrances and preparation, execution and registration of the documents to be executed in connection with the loan."

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: On a point of order, Sir. Is this amendment not out of order?

Mr. PRESIDENT: Yes. As amendment No. 552 has been accepted and the words have already been replaced, this is now out of order.

The question before the House is: that clause 33, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 34.

Mr. PRESIDENT: Clause 34 stand part of the Bill.

Dr. RADHA KUMUD MOOKERJI: On a point of order, Sir. Although I am not a lawyer but since I find the lawyer friends here to be somewhat influenced by party politics, I want to raise the question

as to whether clause 34 does not contravene the existing Civil Procedure Code or the Transfer of Property Act both of which are laws passed by the Central Legislature.

Mr. PRESIDENT: It is true that in this special clause there is a provision that goes against certain sections of the Civil Procedure Code and also the Transfer of Property Act. I have considered this question and I find that this matter was elaborately discussed in the case of Viswanath *versus* Harihar reported in 1 Federal Law Journal, page 179. The Patna High Court held that sections 16 and 17 of the Bihar Money-lenders Act, 1938, were repugnant to Order XXI, Rule 66 of the Civil Procedure Code and was, therefore, void. As a consequence, the Bihar Government without repealing and re-enacting these provisions in the Bihar Money-lenders Act, 1939, took the precaution of reserving the Act for the consideration of the Governor-General and obtaining his assent. The validity of these repealed and re-enacted sections came up for consideration of the Federal Court in the case of Shymakant *versus* Rambhajan, reported in 2 Federal Law Journal, page 187, where Chief Justice Gwyer did not express any opinion on the question of repugnancy, as he held that as the Act was reserved for and assented to by the Governor-General, the difficulty, if it would have otherwise existed, was cured. The Hon'ble Mr. Justice Sulaiman held that on a proper construction of the sections, there was no repugnancy in fact, though he was of opinion that had there been repugnancy, the sections would have been void.

The same question has also been considered by the Calcutta High Court in the recent case of Steward *versus* Brojendra Kishore, reported in 43 Calcutta Weekly Notes, page 913.

So, this defect about repugnancy is curable and if it is cured by obtaining the sanction of the Governor-General, then it will be good law. Of course, without it, the law will be void.

Dr. RADHA KUMUD MOOKERJI: Sir, am I to understand that this measure will have to receive the assent of the Governor-General before it can be passed into law?

Mr. PRESIDENT: After it has been passed, this particular section will have to be placed before the Governor-General and if the assent of the Governor-General is not obtained, then on the ground of repugnancy this particular section will be void.

Dr. RADHA KUMUD MOOKERJI: So far as matters stand at present, considering the present draft of the provisions of this Bill, I think that I cannot take anything for granted in anticipation and so far as my present position is concerned, I do think that it does not conform to the requirements of legal procedure.

Mr. PRESIDENT: Government cannot obtain sanction of the Governor-General in anticipation. Once a Bill is passed, then alone arises the question of placing it before the proper authorities to make it valid. In some cases, the consent of the Governor is necessary, sometimes that of the Governor-General and sometimes that of the Secretary of State or His Majesty. The Chair has no right to obstruct the passage of a Bill and should not, as a matter of fact, obstruct it in such cases. It will be the duty of the Government to obtain the sanction of the Governor-General and the Chair will for the present presume that such consent will be obtained. So, we must proceed with the Bill as it is.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move that in sub-clause (*1*) (*a*) of clause 34 of the Bill, for the word "prescribed" appearing in lines 5 and 6, the word "provided" be substituted.

Sir, the word "prescribed" has been defined in the Bill. According to that definition, it means "prescribed by rules made under this Act". But here it appears that the word has been used in the sense that this is provided by this section. So, in order to avoid misconception and misunderstanding, I have suggested the word "provided" in place of the word "prescribed". That would avoid any ambiguity in the Act. This, I believe, will be accepted by Government.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*)(*a*) of clause 34 of the Bill, for the word "prescribed" appearing in lines 5 and 6, the word "provided" be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*) (*a*) of clause 34 of the Bill, for the word "prescribed" appearing in lines 5 and 6, the word "provided" be substituted.

(The amendment was agreed to.)

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I beg to move that in sub-clause (*1*) (*a*) of clause 34 of the Bill, in paragraph (*i*) after the word "instalments" appearing at the end of line 6, the words "not exceeding twenty" be inserted.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) (*a*) of clause 34 of the Bill, in paragraph (*i*) after the word "instalments" appearing at the end of line 6, the words "not exceeding twenty" be inserted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, it may be left over.

Mr. PRESIDENT: All right. This is postponed.

Mr. MESBAHUDDIN AHMED: Sir, I beg to move that in the first proviso to sub-clause (*1*)(*a*) of clause 34 of the Bill, for the word "of" appearing for the second time in line 3, the word "or" be substituted.

Mr. PRESIDENT: Amendment moved: that in the first proviso to sub-clause (*1*) (*a*) of clause 34 of the Bill, for the word "of" appearing for the second time in line 3, the word "or" be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that in the first proviso to sub-clause (*1*)(*a*) of clause 34 of the Bill, for the word "of" appearing for the second time in line 3, the word "or" be substituted.

(The amendment was agreed to.)

Mr. MESBAHUDDIN AHMED: Sir, I beg to move that in the second proviso to sub-clause (*1*)(*a*) of clause 34 of the Bill, for the word "amount" appearing at the beginning of line 6, the word "instalment" be substituted.

Mr. PRESIDENT: Amendment moved: that in the second proviso to sub-clause (*1*) (*a*) of clause 34 of the Bill, for the word "amount" appearing at the beginning of line 6, the word "instalment" be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that in the second proviso to sub-clause (*1*)(*a*) of clause 34 of the Bill, for the word "amount" appearing at the beginning of line 6, the word "instalment" be substituted.

(The amendment was agreed to.)

Rai Sahib INDU BHUSAN SARKAR: Sir, I beg to move that after the first proviso to sub-clause (*1*) (*a*) of clause 34 of the Bill, the following new proviso be inserted, namely:—

"Provided further that no extension of time in excess of the limit allowed under Order XXXIV of the First Schedule of the Code of Civil Procedure, 1908, shall be allowed, unless the court finds that the security is of sufficient value for the full satisfaction of the plaintiff's claim including interest and costs".

Sir, this is a most reasonable amendment, because owing to the lapse of time the value of the security may have diminished. In that case, it will be very difficult for the creditor to have his money back. So, to safeguard the interests of the creditor, this amendment is moved.

Mr. PRESIDENT: Amendment moved: that after the first proviso to sub-clause (*1*)(*a*) of clause 34 of the Bill, the following new proviso be inserted, namely:—

"Provided further that no extension of time in excess of the limit allowed under Order XXXIV of the First Schedule of the Code of Civil Procedure, 1908, shall be allowed unless the court finds that the security is of sufficient value for the full satisfaction of the plaintiff's claim including interest and costs".

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose it.

Mr. President: The question before the House is: that after the first proviso to sub-clause (*1*)(*a*) of clause 34 of the Bill, the following new proviso be inserted, namely:—

"Provided further that no extension of time in excess of the limit allowed under Order XXXIV of the First Schedule of the Code of Civil Procedure, 1908, shall be allowed unless the court finds that the security is of sufficient value for the full satisfaction of the plaintiff's claim including interest and costs".

(The amendment was negatived.)

Mr. KAMINI KUMAR DUTTA: Sir, instead of moving my amendment Nos. 577-580, I would like to move the amendment standing in my name in respect of the same matter, because it is better worded.

Mr. PRESIDENT: Yes, you may move amendment Nos. 581-583.

Mr. KAMINI KUMAR DUTTA: Sir, I beg to move that in sub-clause (*1*) (*b*) of clause 34 of the Bill, for the words "without interest" occurring in line 15, the words, figures, brackets and letters "ordinarily without interest or with interest not exceeding six per centum per annum on the principal sum adjusted in case where the court thinks fit but without contravening the provision of section 30, clause 1(*a*) and clause 1(*b*), be substituted.

Sir, it will appear that the object of this clause 1(*b*) is to give jurisdiction to the Court to allow long instalments for the payment of money but as the clause now stands no interest would be running on the sum adjudged to be due. So, I move this amendment. The principle accepted is that no interest would be ordinarily allowed but in cases where the Court thinks fit, it may allow interest also at a rate not exceeding six per centum per annum. At the same time the Court will have to look to the provision of section 30, clause 1(*a*) which should not be contravened.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*)(*b*) of clause 34 of the Bill, for the words "without interest" occurring in line 15, the words, figures, brackets and letters "ordinarily without interest or with interest not exceeding six per centum per annum on the principal sum adjudged in case where the court thinks fit but without contravening the provision of section 30, clause 1(*a*) and clause 1(*b*)", be substituted.

Rai Sahib INDU BHUSAN SARKAR: I have also got an amendment of the same nature as the one moved by Mr. Kamini Kumar Dutta. The amendment is——.

Mr. PRESIDENT: It is no use reading that. You may speak on this.

Rai Sahib INDU BHUSAN SARKAR: Sir, I support the amendment moved by my friend Mr. Kamini Kumar Dutta. Of course, the arguments he has advanced are quite sufficient and I think that discretionary power should be given to the Court so that there might not be any hardship to the creditor. The Court may, at its discretion, grant interest whenever it thinks proper. This is only doing bare justice to the creditor.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose it for the same reasons as I gave in my previous speech.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*) (*b*) of clause 34 of the Bill, for the words "without interest" occurring in line 15, the words, figures, brackets and letters "ordinarily without interest or with interest not exceeding six per centum per annum on the proncipal sum adjudged in case where the court thinks fit but without contravening the provision of section 30, clause 1(*a*) and clause 1(*b*)", be substituted.

(The amendment was negatived.)

Mr. LALIT CHANDRA DAS: Sir, I beg to move that in sub-clause (*1*)(*b*) of clause 34 of the Bill, the words "not exceeding twenty years" appearing in line 17, be omitted.

Sir, the discretion of the Court should not be fettered. The clause as it stands would amount to almost a suggestion that the Court should give. With these words, I move my amendment for the acceptance of the House.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*)(*b*) of clause 34 of the Bill, the words "not exceeding twenty years", appearing in line 17, be omitted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose this amendment. I would like to enlighten my friend, Mr. Das, that in the case of big loans there is a contention that the Court may grant not only 20 years' instalments but also 30 or 35 years' instalments.

Mr. LALIT CHANDRA DAS: Name one instance where the Court has done so.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: I know of one case where instalments have been given for 25 years in Faridpur. The Court should have freedom in the matter. We do not want to say that the Court should not give instalments for a period of more than 20 years. That is the reason why we have put "not exceeding twenty years".

Mr. NARESH NATH MOOKERJEE: May I take it that the Government have introduced this simply to protect the money-lenders' interests?

(No answer.)

Mr. PRESIDENT: The question berore the House is: that in sub-clause (*1*) (*b*) of clause 34 of the Bill, the words "not exceeding twenty years" appearing in line 17, be omitted.

(The amendment was negatived.)

Rai Sahib JATINDRA MOHAN SEN: Sir, I beg to move that in sub-clause (*1*) (*b*) of clause 34 of the Bill, for the word "twenty" appearing in line 17, the word "fifteen" be substituted.

Sir, the amendment speaks for itself. My object is to reduce the period to 15 years only. The period of twenty years seems rather long and it should be reduced to 15 years.

Mr. PRESIDENT: Amendment moved: that in clause (*1*)(*b*) of clause 34 of the Bill, for the word "twenty" appearing in line 17, the word "fifteen" be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose it.

Mr. PRESIDENT: The question berfore the House is: that in sub-clause (*1*) (*b*) of clause 34 of the Bill, for the word "twenty" appearing in line 17, the word "fifteen" be substituted.

(The amendment was negatived.)

Rai SATIS CHANDRA MUKHERJI Bahadur: Sir, I beg to move that in sub-clause (*1*)(*b*) of clause 34 of the Bill, for the word "twenty" in line 17, the word "ten" be substituted.

Sir, the Hon'ble Minister has given an instance which happened in the district of Faridpur. He has said that a particular court granted instalments extending up to 25 years. Apparently that has not met with the approval of the Hon'ble Minister and probably with a view to prevent such things in the future this provision in the Bill has been made. When this Bill was drafted, the price of agricultural produce in India was at a low level, but during the passage of the Bill, things in India have changed and changed for the better. The value of agricultural produce—we are mainly concerned with agriculturists and we are shedding tears for them—has increased. The price of jute, paddy, and in fact everything has gone up and the Hon'ble Finance Minister in his broadcast speech has said that the prospects of the tenantry in India are improving and will improve in future. This provision is with regard to payments that will have to be made in the future, that is, at a time when the position of agriculturists or

debtors will not be what it was three years ago. Therefore I think that instead of twenty years it ought to be ten years. This will meet with the wishes of the Hon'ble Minister, namely, that it will not give a very big scope to the Court for granting instalments up to 20 years but only ten years, and that it will be possible for the agriculturist debtor, having regard to the price value of the crop, to pay off his debts.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*)(*b*) of clause 34 of the Bill, for the word "twenty" in line 17, the word "ten" be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose it. My friend believes that things will brighten up. I am not such a bold optimist as he seems to be. Suppose, to-morrow the war is declared to be over, what will be the position of jute and what will be the position of other produce? If my friend thinks that the economic condition of the country will become better and that one can rely on his optimism, of course there may be some justification for accepting an amendment like this. But I am not such a bold optimist as my friend seems to be. I still believe that the economic condition of the people has not changed in such a way that we can say that in ten years' time the entire debt will be wiped out. So, I hope that my friend will not press this motion.

Rai Sahib INDU BHUSAN SARKAR: Sir, in supporting this amendment, I also associate myself with the views of my hon'ble friend Rai Satis Chandra Mukherji Bahadur. I have also seen from my personal experience that the price of agricultural produce, viz., paddy and specially jute, not only in our district but in Bengal, has increased by leaps and bounds. Though it may be said that the high price has not been received by the agriculturists because the high price began to prevail after they had parted with the stock in their hand, still I think that the price of jute has increased to some extent compared with what it was three years ago. I am sure that the price of agricultural products has really gone up and in view of that—I think previously instalments were granted by the Courts only for a period of 5 or 6 years and not more than that—the agriculturists and borrowers could pay in many cases, but not in all cases. And now also if they have a little amount to pay, then they can pay within this time. I think, Sir, that 10 years is a most reasonable period of time that can be given. It is not a very short period in human life, and if they are allowed 10 years to pay up the instalments, I think they will be able to pay. If they are allowed such a long time as 20 or 25 years, they will have no mind or inclination to pay, whereas

if it be within a reasonable period of time, i.e., not very long and not very short, then I think the poor agriculturists and other debtors will be able to pay their dues.

With these words, Sir, I commend this motion for—I cannot say for acceptance—the consideration of the House.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*)(*b*) of clause 34 of the Bill, for the word "twenty" in line 17, the word "ten" be substituted.

(The amendment was negatived.)

Rai SATIS CHANDRA MUKHERJI Bahadur: Sir, I beg to move that in sub-clause (*1*)(*b*) of clause 34 of the Bill, for all the words beginning with "if default is made" in line 21 up to the end of the sub-clause, the words "if default is made in making payment of any instalment the whole of the decretal amount shall be recoverable" be substituted.

Sir, this new provision in the Bill providing for numerous and easy instalments has been made with the object of enabling the debtor to pay his dues, every such instalment being regulated, no doubt, according to the circumstances of the debtor. But if in spite of that the debtor is in no mood to pay, no legislation can make him pay. Still, we have provided that though such easy instalments have been granted if the debtor is not in a mood to pay, the result will be that only that instalment will be recoverable and not the whole of the decretal amount. Ordinarily, Sir, the practice in the court is that when a decree provides for payment in numerous instalments, failure to pay one instalment involves a penalty to pay the entire amount. I think that no case has been made out, having regard to the long and easy instalments that have been provided, for simple recovery of that instalment which is in default and not the entire amount.

With these words, Sir, I move my motion.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) (*b*) of clause 34 of the Bill, for all the words beginning with "if default is made" in line 21 up to the end of the sub-clause, the words "if default is made in making payment of any instalment, the whole of the decretal amount shall be recoverable" be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose the motion. I have repeated several times that this measure is being thought of just because the time is abnormal and we do not know how long this abnormality will continue. So, we are proceeding very cautiously. If after some time, the conditions

improve and the people who have run mad cease to do any further mischief, the Legislature may think of amending this provision. But as long as the world is in this deplorable condition and the economic condition remains as such, one must be very cautious in legislating. So, we have proposed that if they are not able to pay an instalment in time they should not be harassed with the payment of the entire decretal amount. They should be punished just for the omission or for non-payment of that instalment. But in ordinary times when the money-lenders were in absolute power, they made legislation just to suit their purpose, but the time has now changed. The poor agriculturists say that they should have some respite. That is why this has been put in in the body of the Bill, and I hope my friend will understand the position and withdraw his motion.

Mr. J. B. ROSS: On a point of information, Sir. When the Hon'ble Minister refers to the deplorable condition, does he refer to the present prices of jute, and, if so, from what angle does he view it as a deplorable condition?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: My honourable friend ought to know that it is not jute alone that is to be thought of, and my friend cannot give an assurance that the price of jute that is now ruling will continue to remain as it is. Suppose, to-morrow it is so arranged that no one cares to use aeroplanes against other countries, will there be any necessity for all these jute bags and sand bags? There will be no necessity for them and automatically the price of jute will come down. After all, I say that I cannot rely upon the present price. I do not think that the price that is now ruling can continue even beyond three months. That is the reason why I say that the condition is deplorable.

Khan Bahadur ATAUR RAHMAN: Does the Hon'ble Minister consider the difficulties—the legal and illegal costs—of the plaintiff, the *mahajan*, to sue 21 times for realisation of his dues? Once for the original suit and twenty times for the instalments he will have to sue. Suppose, I am a debtor and I do not pay a loan, the *mahajan* will have to sue me for 21 times, and he will have to get summonses served on me 21 times and issue writs and get everything done by the Civil Court. He will incur enormous cost, both legal and illegal.

Khan Bahadur NAZIRUDDIN AHMAD: Especially illegal!

Khan Bahadur ATAUR RAHMAN: Yes, especially illegal cost. Has he considered all these?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: My friend has always been thinking of big people——

Mr. PRESIDENT: No second argument is necessary. You only reply to his question. He has asked you whether you have considered?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Yes, Sir, I have taken that into consideration.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: In reply to my friend, I may say that he has not taken into consideration the deplorable condition of the agriculturists. For his information, I may tell him that the average income of a Bengal agriculturist is only Rs. 21 per head per annum and his debt is found to be Rs. 50 per head on which he has to pay Rs. 12 as interest alone. So, if these facilities be not allowed to him, he will never be able to pay off his debt. For this reason, these facilities have been allowed to him so that those who are willing to pay may pay off their debts. The entire agricultural population has gone to bankruptcy and we are making a desperate effort to see if we can save it in any way.

Mr. PRESIDENT: The honourable member may also answer the question of Mr. Ross.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: The condition is so bad that the rise in the price of a single crop is not sufficient to better their condition. The average income—we have calculated it for the last five years—is only Rs. 21 and the average debt is Rs. 50 per head on which the interest charged is at least 25 per cent. which comes to about Rs. 12-8. Out of Rs. 21, if he has to pay even the interest charge only, he will have to pay Rs. 12-8 and he will be left with only Rs. 8-8 even if he does not pay any portion of the capital. With that he will have to meet his expenses on food and clothing. That is the position of the agriculturists of Bengal. For the information of the House, I make this statement.

Mr. J. B. ROSS: Sir, may I speak on this amendment?

Mr. PRESIDENT: Yes, you can.

Mr. J. B. ROSS: The question of interest at this stage of the Bill has passed. The matter has gone to court and a decree has been passed without interest, and, therefore, the agriculturist having had a decree passed against him is being further protected in the event of default by not being forced to pay the whole of the decree but only the instalment which is outstanding. The question of interest in that

case does not arise, and it seems to me,—I am not expressing any opinion on the amendment,—that this clause, as drafted in the Bill is going to encourage non-payment by the judgment-debtor, because he knows that he can be forced to pay only the instalment which has fallen due and which he will have to pay in any case; but protected as he is by the Bill, he can put the decree-holder to a good deal of expense and trouble to get even that amount.

Mr. KADER BAKSH: Sir, with regard to the argument which was advanced by Rai Bahadur Satis Chandra Mukherji that the condition of the agriculturists has become much better with the rise in the price of jute and other articles, I may remind him that money-lenders and people like him who have grown so very fat physically, financially and otherwise——

Mr. PRESIDENT: Order, order. Reference to one's person is really objectionable.

Mr. KADER BAKSH: Agriculturists have not been able to get any profit out of it. Only those people who are not agriculturists but are capitalists and middle-men have grown fat on account of the rise in the price of jute. People in the interior were compelled to sell their jute earlier when the price was only Rs. 6 or so. But now when the price is ranging from Rs. 103 to Rs. 118, these poor agriculturists have no jute in stock to sell and so they have been deprived of the benefit of this rise in price. Rather, they have become poorer than they were before on account of the rise of the price in the jute market here, that is, the Fatka market. If such a long instalment be not given and if on the failure of payment of one instalment, all the instalments become due, I can assure you that not a single farthing will be realised because it will then be beyond his means to pay. So, it is better that provision be made for easy payment and easy realisation of the decretal amount. So, any motion or any amendment curtailing or restricting the power of legislation will bring in disaster both to the lender and the borrower and the money will never be realised. On these grounds, I beg to oppose the amendment of Rai Bahadur Satis Chandra Mukherji.

Rai Sahib INDU BHUSAN SARKAR: I can say one thing in support of the argument which Mr. Ross has advanced. I know from personal experience that some instalments have been allowed by the Debt Settlement Boards and in other cases some private arrangement has been made between debtors and creditors. But since this Money-lenders Bill has been on the anvil, they have altogether stopped payment and I am sure they are not paying, not because they are unable to pay but because they think that when this Act is enacted

they may not have to pay their dues. So, this will really encourage non-payment, as observed by Mr. Ross, and we have been seeing it in the case of *Khas Mahal* rent realisation. Probably, the Hon'ble Nawab Bahadur will not deny that there has been less realisation in *Khas Mahal* lands. And what is the reason? It may be mainly due to flood or drought or something like that still a reasonable proportion is due to the factor I have mentioned. The common feeling in rural areas is that they may not have to pay their dues in the case of grants and specially in the case of debts. They say that all the debts will be liquidated in their own way. Really, if in default of one instalment the entire amount be not demanded at once, they may not have anything before them as a sort of penal clause to induce them to pay their legal dues. So, I think this will encourage non-payment.

Mr. KAMINI KUMAR DUTTA: Sir, I do not really rise to speak at length about this amendment. But as reference has been made to the flow of money into this country on account of the rise in the price of jute, I think it is my duty to expose the real truth of the matter. It is a fact that money has flown into the country, but 60 per cent. of that has gone to the pockets of the Marwaris who have already a long purse. It is only the purse of the rich which has been inflated and the next persons who have benefited by this flow of money into Bengal are the European and other balers. Only about one-tenth or less than that has gone to the pockets of the poor cultivators. So, this apparent richness of the country has not increased really the solvency of the cultivators, it has gone to the pockets of those who are already rich. The rich have become richer but the poor remain where they were.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*) (*b*) of clause 34 of the Bill, for all the words beginning with "if default is made" in line 21 up to the end of the sub-clause, the words "if default is made in making payment of any instalment, the whole of the decretal amount shall be recoverable", be substituted.

(The amendment was negatived.)

Rai SATIS CHANDRA MUKHERJI Bahadur: Sir, I beg to move that in clause 34 of the Bill, the first proviso to sub-clause (*2*), be omitted.

The proviso runs thus:

"Provided that nothing in this sub-section shall affect the power of the court to allow, prior to an order for execution of the decree, an extension of time of not less than one year for the payment of any instalment, and that if such extension of time is allowed, the payment of such instalment shall not be deemed to be in default."

My reason for moving this amendment is that already enough provision has been made for easy payment by granting instalment up to 20 years, and even if there is a default of one instalment, there is no reason for granting further extension.

Mr. PRESIDENT: Amendment moved: that in clause 34 of the Bill, the first proviso to sub-clause (*2*), be omitted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose it.

Mr. PRESIDENT: The question before the House is: that in clause 34 of the Bill, the first proviso to sub-clause (*2*), be omitted.

(The amendment was negatived.)

Rai SATIS CHANDRA MUKHERJI Bahadur: Sir, I beg to move that in sub-clause (*3*) of clause 34 of the Bill, after the word, figure and brackets "sub-section (*1*)" appearing in line 2, the words, figure and brackets "or sub-section (*2*)", be inserted.

Sir, sub-section (*3*) runs thus:

"(*3*) Any order made under sub-clause (*ii*) of clause (*b*) of sub-section (*1*) shall be deemed to have been passed under section 47 of the Code of Civil Procedure, 1908".

Sir, it means that all orders made under section 34 (*1*) which relate to the mortgage decree will be considered to have been passed under section 47 of the Code of Civil Procedure, 1908. At the same time, in the case of money decrees, the difference is made that an order of the same class and category as in the case of mortgage decree will not have the same effect, viz., that it shall not be considered to have been passed under section 47 of the Civil Procedure Code. I think there is no reason for making this distinction between a mortgage decree and a money decree. It must apply to all decrees, whether mortgage decree or money decree. I think that that is an omission or a mistake in not putting in the words "or sub-section (*2*)". So, I hope that the Hon'ble Minister will see his way to accepting this amendment.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*3*) of clause 34 of the Bill, after the word, figure and brackets "sub-section (*1*)" appearing in line 2, the words, figure and brackets "or sub-section (*2*)", be inserted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose it.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*3*) of clause 34 of the Bill, after the word, figure and brackets "sub-section (*1*)" appearing in line 2, the words, figure and brackets "or sub-section (*2*)", be inserted.

(The amendment was negatived.)

Mr. PRESIDENT: The House stands adjourned till 2-15 p.m. to-morrow.

Adjournment.

The Council then adjourned till 2-15 p.m. on Friday, the 12th January, 1940.

Members absent.

The following members were absent from the meeting held on the 11th January, 1940:—

(1) Rai Bahadur Keshab Chandra Banerjee.

(2) Rai Bahadur Manmatha Nath Bose.

(3) Mr. Humayun Reza Chowdhury.

(4) Mr. Narendra Chandra Datta.

(5) Khan Bahadur S. Fazal Ellahi.

(6) Khan Bahadur Alhaj Khwaja Muhammad Esmail.

(7) Alhaj Khan Bahadur Shaikh Muhammad Jan.

(8) Mr. H. G. G. Mackay.

(9) Rai Bahadur Radhica Bhusan Roy.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Friday, the 12th January, 1940, at 2-15 p.m. being the twenty-fourth day of the Third Session, pursuant to section 62(2)(a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Floods in Bengal.

139. Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: (a) Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state the number of districts and the number of villages and *taluks* that have been inundated by floods during the last rainy season?

(b) Will he be pleased to state in how many of such districts and *taluks* the inundation has been recurring for the last five years and in how many cases the inundation was for the first time during the last rainy season?

(c) Will he be pleased to state whether the Government made any departmental enquiries into the causes of such inundation in each of the affected areas?

(d) Has the Government taken any steps to prevent recurrence of such floods in those districts? If not, why not?

(e) Does the Government propose to appoint a Committee consisting of equal number of members of the Assembly and the Council and some Government Experts to investigate into the causes of such recurring floods in Bengal?

MINISTER in charge of the COMMUNICATIONS and WORKS DEPARTMENT (the Hon'ble Maharaja Srischandra Nandy, of Cossimbazar): (a) and (b) Twenty districts were affected by the floods of 1939. Except for some areas in five of these, the floods are recurring, and mostly inundate low *bils* and swamps. It would take some time to compile accurately a list of villages and *taluks* affected by the floods and I trust that my hon'ble friend will not press for this information.

(c) and (d) Attention is invited to my speech in this House on the 2nd May, 1939, in the course of which I outlined the reasons for recurring floods and indicated the action that was being taken to deal with the problem.

(e) I really do not think that a Committee is necessary. The cause of floods is well known.

Eastern Frontier Rifles (Bengal Battalion Amendment) Bill, 1939.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, with reference to the notice of a motion for the consideration and passing of the Eastern Frontier Rifles (Bengal Battalian Amendment) Bill, 1939, given by me on the 8th, I beg to request you to waive the usual period of notice and permit me to proceed with the Bill, clause by clause, on the 15th in the event of my motion for consideration being accepted by the House.

Non-official Resolution.

Mr. PRESIDENT: The House will now take up further consideration of the partly discussed non-official resolution of Mr. Lalit Chandra Das moved on the 5th January, 1940, urging the appointment of a committee to suggest remedies for removing strained relations among the Hindus and Mussalmans in the district of Noakhali.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, before the discussion on this non-official resolution is proceeded with, I beg to point out that to-day was specially fixed for discussion of private members' Bills. According to rule 18, on days allotted for any particular class of business, the business of that class shall have precedence. I beg to say that non-official Bills should have precedence to-day, and after that the resolution may be taken up if time is left. Therefore, Sir, I would request you to take up non-official Bills before the resolution.

Mr. PRESIDENT: The honourable member's contention is correct. But I was approached on behalf of Government and also by the Deputy Leader of the Congress Group both of whom informed me that there was a general understanding that the partly-discussed resolution might be taken up first. Unless there is a general understanding, I would like to follow the rules and certainly non-official Bills will have preference.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I beg to point out that the rule is mandatory—"shall have precedence" and does not give any discretion to anybody.

Mr. PRESIDENT: Unless there is no objection, I think non-official Bills will have to be taken up first.

The Hon'ble Khwaja Sir NAZIMUDDIN: I think that the rules do not preclude discussion of classes of business on the same day. The Chair could certainly have suggested that resolutions would be taken

up for so long and non-official Bills for so long. Unfortunately, this was not done. I would request the honourable members to allow the resolution to be taken up first. If necessary, Government will agree to have in the next session two days for discussion of non-official Bills first before taking up resolutions. This resolution is very important. As honourable members are aware, there has been a lot of agitation over the question both in newspapers and in various conferences, and I would appeal to honourable members to agree to allow this being discussed so as to give me an opportunity of giving a reply. As far as the non-official Bills are concerned, Government will have no objection if two consecutive Fridays, whether in this session or in the next, are given for the discussion of non-official Bills.

(Cries of "No objection.")

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, in view of the Hon'ble Home Minister's statement, I withdraw my objection.

Mr. PRESIDENT: As regards the point raised by Khan Bahadur Saiyed Muazzamuddin Hosain, the Chair may allot different days for the disposal of different classes of private members' business and on days allotted for a particular class of business, business of that class shall have precedence. So, unless there is no objection, the objection raised by Khan Bahadur Saiyed Muazzamuddin Hosain will prevail. I take it that there is no objection to the partly-discussed resolution of Mr. Lalit Chandra Das being taken up.

Dr. RADHA KUMUD MOOKERJI: Sir, with reference to the resolution about Noakhali, the position that I was taking up on the last date was simply this that the Council had got before it enough material to justify an enquiry on the part of Government. The resolution does not lay stress on the exact form that the enquiry should take. At least that is what I take the sense of the resolution to be.

Now my contention is, Sir, that from the various facts and statements that have already been presented before the Council, every one will come to the conclusion that all is not well in the State of Denmark, if I may say so, and that the situation created at Noakhali is so abnormal that if only a fraction of what has been stated to be facts is true, then certainly it is to the interest of the Government as well as the public to institute an enquiry. So, my whole position is that a case for an enquiry has been established. Now, Sir, in these days we have been used to the presentation of charge-sheets and those who present charge-sheets against Congress Governments, those who are so very forward in the presentation of charge-sheets, they have set the fashion that they need not be at pains to prove the truth of the charges

that are raised in those charge-sheets. So far as I am concerned, Sir, I take the cue from the fashion that has been set by no less a person than the Hon'ble the Chief Minister of the Bengal Government. Well, if he can indulge in formidable charge-sheets,—charge-sheets of formidable size against several Governments of India,—I as a humble person should also present before him a sort of a charge-sheet with reference to the administration of Noakhali. Sir, when a charge-sheet is presented it need not necessarily be the case that everything in the charge-sheet should be proved legally. My object in presenting a certain charge-sheet is simply this. I want to draw the attention of this Council to the state of things that has been going on in Noakhali for about 4 or 5 years. I should also make it clear at this juncture that I do not commit myself to the opinion that there is any kind of communal tension in the district. I do hope—I accept the assurance of the Hon'ble Home Minister on the subject—that communal feelings in Noakhali are not necessarily very disturbed, although his statement may not be acceptable to many people or many sections of the public. But what I want to bring to the notice of Government is that undoubtedly there has been outbreak of lawlessness and defiance of constituted authority for some time at Noakhali. And, secondly, I want to draw the attention of Government to one fact, namely, that as a matter of fact the community that forms a hopeless minority in the district of Noakhali, that community feels itself terrorised by the unrestricted liberty which has been enjoyed for some time by certain leaders of a particular community. Whether this feeling of terrorism in the minds of a particular community is justified or not, that is another matter. But I understand that there is a feeling that the Hindus of Noakhali feel as if they are terrorised.

Now, as to the truth of this charge. Of course, in this connection I should say that Government the other day took credit to themselves for the fact that in Bengal there has not been any communal riot on the scale or with that frequency which marks the other provinces. But I am afraid that if we go into the condition of Noakhali, we shall only see that Noakhali is now too good even for a riot; where the people are absolutely benumbed and terrorised, there is no occasion for a riot. Their lot is only to suffer in silence.

To-day I wish to draw the attention of the Hon'ble Home Minister to a sort of impartial report on the condition at Noakhali which has been published in the "Hindusthan Standard" by Mr. Lufti Ali, Barrister-at-Law, Calcutta. In the course of his report to a newspaper, I find that he has used the following sentence: "I went to study the effect of the last flood and to distribute some clothes to the Muslim and Hindu victims of the area." I cannot but pay a compliment to this gentleman on his noble-hearted public spirit with which he went to Noakhali to study the situation there, and therefore

any evidence from such a source should be considered unimpeachable. I should say, here is a man who knows how to write and how to talk. He says: "I felt ashamed when many Hindus and a few Muslims saw me and complained about their unripe paddy being cut off on a massive and vindictive scale, the victims mostly being persons having neither money-lending nor *talukdari* business. Cases of trespass, dispossession, assault, tampering with the honour of ladies were reported to me. In this connection, a certain M.L.A.'s name was freely discussed as the real instigator from behind the screen and sometimes even openly. I am told that Lamchar and Karpara bazars which are century-old markets of the district have been totally boycotted by Muslims from last year just like the well-known boycotted markets of Raipura, Dattapara and Nadigram."

On this matter, however, I join issue with this gentleman because I believe in social liberty and economic freedom. So, I do not think much of this charge. Further on, he says, "It was amusing to hear the reports from responsible men of his rabid speeches" and there are certain other things which, I do not think, are fit even for the Council's consumption, so I omit that: "People complained to me about the terrible effects of the administration of Arbitration Board." That is beside the point. I do not like to cite any further passages from his note.

Now, as regards the state of things at Noakhali, I find that the history of the lawlessness that has been prevailing at Noakhali may be traced as far back as the time of the last elections. I wish in this connection to remind the Hon'ble Minister of the Interior himself of the kind of treatment that was meted out to him and his followers when he visited Noakhali on the occasion of the last Assembly elections. Stones were thrown at him. He was maliciously abused and was about to be assaulted by *lathi*-charge. I shall be very glad to know that this was not correct. But it seems that the Hon'ble the Home Minister was the first victim of this kind of lawlessness which had been going on even as far as the time of the last Assembly elections.

Now, as regards the cutting of unripe paddy, the other day the Hon'ble the Chief Minister was pleased to observe "Where there is paddy, it must be cut". But it is a question of cutting unripe paddy. So that makes all the difference. In that connection although there have been numerous cases of lawlessness taking this form of cutting unripe paddy in broad day-light, I find a particular case in which there was conviction of certain people connected with this sort of crime in a lower court and the conviction was upheld by the District Judge. I understand that the Judge in his judgment also mentions the complicity of certain gentlemen who he has named. I do not know whether I am entitled to give those names here, because the charges are so bad and I do not like to give the names. The Hon'ble Home

Minister who has more information at his disposal will be able to locate these things properly. But here I am simply pleading a case for enquiry and nothing else, and I am trying to back up the case for enquiry by a reference to certain happenings which may be regarded as providing a basis for the demand that is put forward in this resolution.

Now, Sir, I can refer also the Council to the sessions case of a *mahajan* being beaten to death. His body was burnt. The culprits to avoid capture burnt the body, and I understand that the culprits were members of the Krishak Samity to which reference was made by the mover of this resolution.

The Hon'ble Khwaja Sir NAZIMUDDIN: When?

Dr. RADHA KUMUD MOOKERJI: It is a sessions case, and I think it is Lakhipur case. My request is that you make an enquiry. I put before you this case and I believe it is true. Of course, I have not come so well briefed and so well posted in all the particulars. I refer you to the sessions case of a person who was beaten to death. I think the locality is Lakhipur.

The Hon'ble Khwaja Sir NAZIMUDDIN: Are you sure that it occurred between 1937-39?

Dr. RADHA KUMUD MOOKERJI: My case is that the lawlessness dates even from earlier times. It has been going on for years. Of course, all I mean to say is that it is just an example of cases of the same class. I mention this because it puts in a nutshell——

The Hon'ble Khwaja Sir NAZIMUDDIN: Why not try and bring cases between 1937-39?

Dr. RADHA KUMUD MOOKERJI: The resolution does not mention any date.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Then you have given away your whole case.

Dr. RADHA KUMUD MOOKERJI: I had a longer vision and I was taking in the story from the starting point when the Home Minister was subjected to insulting treatment at the time of the last elections. If he could give me a different account I should be very happy.

I also understand, as Mr. Das has already pointed out, that hundreds of cases of this character——

The Hon'ble Khwaja Sir NAZIMUDDIN: Of what character?

Dr. RADHA KUMUD MOOKERJI: Where paddy was cut.

Mr. HAMIDUL HUQ CHOWDHURY: You have now reduced them to paddy-cutting cases!

Dr. RADHA KUMUD MOOKERJI: If you wish to understand the classes of cases, I shall just give you a list:—

(1) Incendiarism, resistance and assault on peons of civil courts and Hindu decree-holders, cutting off of the crops of Hindu middle-class at night and sometimes in broad day-light: hundreds of such cases have been given.

(2) Milch cows and oxen of Hindus were taken out at night and killed. Beef and skin sold in the communal market: many dacoities committed in the houses of Hindus with *lathis*, the culmination being reached in the case of a money-lender who was beaten to death.

As regards the crimes against women, I don't like to make a mention of these cases. They are so abominable that I don't like to pollute the atmosphere of the Council by a reference to such cases.

Mr. HAMIDUL HUQ CHOWDHURY: It is already polluted and you can at least clear it.

Dr. RADHA KUMUD MOOKERJI: I come to another serious case at Sandip where there was the usual disturbance to a Durga Puja procession with the result that the Goodess has not yet been immersed in water. Here, I give you a specific instance. Of course, when you are out to boil a pot of rice, it does not mean that you will know that the rice is boiled by taking every bit of rice. I am taking a bit of rice to show that the rice is well boiled. In 1936-37, there were cases in Lakhipur——

Mr. HAMIDUL HUQ CHOWDHURY: What cases?

Mr. PRESIDENT: Order, order. Your time is almost over. You may conclude your speech.

Dr. RADHA KUMUD MOOKERJI: I am just concluding. My conclusion is this that the state of things is rotten at Noakhali and it has been going on for some time and the Home Minister himself got a taste of it at the time of the last elections. This lawlessness has been going on increasingly and taking various forms; various kinds of crimes are being committed, such as destroying the lawful property of people, interfering with the administration of justice, breaking up

of old markets and selling beef in open places much to the repugnance of the Hindus. I think that you must approach my statement in the same spirit in which elaborate charge-sheets have been framed against so many Provincial Governments by the Hon'ble the Chief Minister. It is not incumbent on a man who makes or frames a charge-sheet to prove on the occasion of framing the charge-sheet that every item is true. What I want to say is: please make an enquiry. This matter calls for an enquiry which will rehabilitate public confidence. That is what the resolution seeks to achieve. That is the only question before you. Please do not run away with the idea that what I am saying I am just now in a position to legally prove. But I think that I have adduced before you sufficient evidence, a narration of sufficient number of facts which have found their way in the public press. I have given you a narration of facts and have given you an idea of the happenings going on at Noakhali so as to enable you to form your own judgment. Here is at least a case for enquiry and if as a result of that enquiry we find that all these charges are baseless, I should congratulate myself and also the Council because nothing would be more pleasing to us than to find that the administration of Bengal is carried on on absolutely up-to-date and right lines and that there is no cause for any kind of communal complaint, maladministration or injustice. With these words, I commend this resolution to the acceptance of the House, once again reminding them that the resolution wants a very simple thing. It wants you to commit yourself to the opinion that that is a need for enquiry into the happenings of Noakhali which have been going on for some years, culminating in some of the worst atrocities imaginable. I do hope that honourable members of the Council will treat the question in the spirit in which I have dealt with it. I have not said that all these excesses and examples of lawlessness are one one side. I say that it is lawlessness irrespective of communal consideration and so I do not like to apportion praise or blame; and I am most eager not to say anything which may even affect the good relations of the communities to which the Home Minister has referred. It is in that spirit, please understand, that I am supporting this resolution.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I hope no other member will speak after me.

Mr. LALIT CHANDRA DAS: I have the right of reply.

Mr. PRESIDENT: Yes, but the Hon'ble Minister may speak again, if he likes.

The Hon'ble Khwaja Sir NAZIMUDDIN: My point is this. As far as Bills are concerned, Government are prepared to give them two continuous days—next two Fridays—if there is any difficulty. As far

as the Privilege Bill is concerned, that won't take more than two minutes. It can be taken up at the end of this discussion.

***Maulana MUHAMMAD AKRAM KHAN**: মাননীয় সভাপতি মহাশয়, আমার প্রিয় বন্ধু অধ্যাপক রাধাকুমুদ মুখার্জ্জির বক্তৃতা শুনিবার পর কি কারণে জানিনা আমাকে বক্তৃতার প্রবৃত্তি পেয়ে বসেছে; সেই জন্য আমি দুএকটা কথা নিবেদন কোত্তে চাই। অধ্যাপক মহাশয় বক্তৃতার কয়েক জায়গায় যে সব উক্তি কোরেছেন, তাথেকে পরিষ্কারভাবে বুঝা যাচ্ছে, যেহেতু বিভিন্ন প্রদেশে মুসলমানদের দ্বারা কংগ্রেসী গভর্ণমেণ্টগুলি অভিযুক্ত হোয়েছে এবং যেহেতু তাদের বিরুদ্ধে নানা রকম charge-sheet গঠন করা হোয়েছে সেই হেতু প্রমাণ থাক বা নাই থাক রাজনৈতিক কারণে এই গভর্ণমেণ্টের (বাংলা গভর্ণমেণ্ট) বিরুদ্ধেও একটা charge-sheet গঠন করা দরকার।

Dr. RADHA KUMUD MOOKERJI: Sir, on a point of personal explanation. I had not the remotest idea that my remarks would be misconstrued in this manner. I did not like to cast any reflection on anybody. I said that it was usual to frame charge-sheets without being able to prove them.

Mr. PRESIDENT: Order, order.

Maulana MUHAMMAD AKRAM KHAN: সেদিন যখন এই প্রস্তাব সম্বন্ধে আলোচনা করা হয় সেই সময় প্রত্যক্ষভাবে এবং আজ পরোক্ষভাবে জনৈক M. L. A.র সম্বন্ধে আলোচনা করা হোয়েছে। সেই M. L. A. House এর বাহিরে হয়ত যা বোলেছিলেন তা নিয়ে এখানে আলোচনা হোচ্ছে। কিন্তু আমি এমন সব M. L. A.র নাম কোর্ত্তে পারি যাঁহাদের বক্তৃতা ভীষণতর ও প্রচণ্ডতর। সুতরাং আমার মতে পরিষদের বাইরের কথা নিয়ে এখানে আলোচনা করা উচিত নয়।

আমার বন্ধু অধ্যাপক মহাশয় নোয়াখালির কোন বিশিষ্ট ভদ্রলোকের নাম কোরেছেন— Mr. Lutfar Rahman (?) তিনি একজন Barrister, স্বীকার কত্তেই হবে। কারণ হাইকোর্টের কেতাবে তাঁর নাম লিপিবদ্ধ হইয়া আছে। তিনি নিশ্চয়ই একজন মহাপুরুষ যেহেতু তিনি কাপড় ও চাউল নিয়ে দুঃস্থ মানবতার সেবা কোর্ত্তে গিয়েছিলেন। আমি তাঁর উদ্দেশে নমস্কার জানাই। কিন্তু অধ্যাপক মহাশয়ের নিকট তাঁর যে বিবৃতি শুনলাম তাতে গোড়া থেকে শেষ পর্য্যন্ত একই সুর বেজে উঠেছে "আমার নিকট এরূপ অভিযোগ করা হোয়েছে"। তিনি কোথাও বলেন নাই আমি অভিযোগগুলি তদন্ত কোরেছি এবং সত্য বোলে বুঝতে পেরেছি"। আমি যতদূর ইংরাজী বুঝি তাতে মনে হয় এই বিবৃতির কোন যায়গায় ঘুনাক্ষরে এমন ইঙ্গিত নাই যে তিনি ব্যাক্তিগত তদন্ত কোরে এই সব অভিযোগ উপস্থিত কোরেছেন। এই অভিযোগগুলি এক শ্রেণীর লোক উপস্থিত করেছে এবং একশ্রেণীর লোক খবরের কাগজেও লিখেছে। আমি অধ্যাপক মহাশয়কে জানাতে চাই যে Mr. Lutfarএর মুসলমান সমাজে কোন স্থান নেই।

Mr. PRESIDENT: যে সব ভদ্রলোক এখানে উপস্থিত নেই তাঁদের সম্বন্ধে যত না বলা যায় ততই ভাল।

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*An authorised English translation of this Bengali speech will be found in the Appendix.

Maulana MUHAMMAD AKRAM KHAN : আমি অবনত মস্তকে সভাপতি মহাশয়ের নির্দ্দেশ মান্য কোরছি যে সমস্ত কাণ্ড কারখানা ও ব্যাপারের অধ্যাপক মহাশয় উল্লেখ কোরেছেন তাঁহার বক্তৃতার ভূমিকায়, তাতে মনে হয় যে নোয়াখালিতে একটা ভীষণ এবং ভয়াবহ অবস্থার সৃষ্টি হোয়েছে। কিন্তু বর্ত্তমান গভর্ণমেন্ট প্রতিষ্ঠিত হবার পর বাস্তব ক্ষেত্রে আমি এমন একটাও ঘটনার কথা শুনি নাই যাতে কারো Enquiry Committee হওয়ার আবশ্যকতা আছে বোলে মনে হোতে পারে---হয়তো কোন জায়গায় একজনকে কেউ মেরেছে কিম্বা কারুর ধান কেটে নিয়ে গিয়েছে।

বাংলাদেশে যাঁরা বাস করেন তাঁরা অনেকেই জানেন যে ধান কাটাকাটি ব্যাপার ভাদ্র মাস থেকে আরম্ভ কোরে দু তিন মাস বাংলায় সর্ব্বত্রই চলে। আর মারামারি লাঠালাঠি হিন্দুতে হিন্দুতেও করে, মুসলমানে মুসলমানেও করে। যেখানে মুসলমানের সংখ্যা বেশী সেখানে মুসলমান অপরাধী হয় বেশী আর যেখানে হিন্দুর সংখ্যা বেশী সেখানে হিন্দু অপরাধী হয় বেশী। এই ব্যাপারটা এমন অভিনব বা উদ্ভট নয় যে এর জন্য Enquiry Committee হওয়া দরকার।

কলিকাতার square গুলিতে গত দুই বৎসর যাবৎ যেসব সভা সমিতি হোয়েছে, অধ্যাপক মহাশয় তাঁর ইতিহাস যদি স্মরণ করেন তাহোলে দেখবেন এই সব সভা সমিতিতে সুশিক্ষিত রাজনীতি জ্ঞানসম্পন্ন ব্যক্তিগণের মধ্যে যে সমস্ত মারামারি কাটাকাটি, লাঠালাঠি হোয়েছে তার তুলনায় নোয়াখালি সংক্রান্ত তথাকথিত ঘটনাগুলি একেবারে নগন্য।

অধ্যাপক মহাশয় প্রকাশ্য স্থানে বস্তু বিশেষের বিক্রী করার কথা বোলেছেন। সে সম্বন্ধে মন্ত্রী মহাশয় তদন্ত কোরলে আমি বাধিত হব।

The Hon'ble Khwaja Sir NAZIMUDDIN: Mr. President, Sir, in a manner I am grateful to Mr. Lalit Chandra Das for bringing up this question once before the Council and for giving me an opportunity to expose the false and baseless propaganda that has been carried on for the last twelve months in Bengal about Muslim excesses in Noakhali.

Sir, Mr. Lalit Chandra Das's speech is an abridged edition of the representation that was submitted by Mr. Narendra Kumar Basu to His Excellency Sir John Woodhead when he was the Governor of Bengal. Before that, another representation was forwarded to the Government in February, 1939, which is also practically on the same lines as the representation of Mr. Basu as well as the speech of Mr. Lalit Chandra Das.

Now, Sir, when I got the representation relating to the alleged excesses in Noakhali in February, 1939, I got the Chief Secretary to write to the Secretary to the Hindu Mahasabha from whom it came to give the Government dates and particulars, so that they might be in a position to decide, first of all, whether an enquiry should be made. Government received no reply. Dr. Nalinaksha Sanyal in the Assembly asked questions on this subject. Immediately before answering those questions, I again got the Chief Secretary to send a reminder. A reminder was sent—I am speaking from memory—on the 7th December to the Secretary, Hindu Mahasabha, again asking for particulars and dates, so that Government could make an enquiry and look into this question. Again, Sir, since then up to now, no reply has been sent to

us. I have asked the Chief Secretary to send another reminder on this subject, because I feel, and I am very particular, that if these people will only come out with definite dates and particulars, I will be able to expose them more completely than I can to-day. However, I hope even to-day to be able to expose that the whole thing is baseless, false and malicious. It is simply an attempt to malign the Government without any facts whatsoever, and actually the story is a quite different one. I will show later on why all this agitation is being carried on.

Sir, taking the speech that has been made by the honourable mover the other day and looking at it, what do we find? We find that although he is trying to condemn the present Government for what is happening in Noakhali, he tries to quote instances of things that have happened between 1932 and 1937 mainly. When challenged as to the dates between 1937 to 1939, the period when this Government has been in office, all that he could bring forth and produce was a series of paddy-cutting cases. If the entire agitation against Government is based upon paddy-cutting cases, I feel that it would be a waste of the time to discuss the matter in this House. But here again I want to make out that the honourable member has made statements in this House which are not correct. He has made deliberately, if I may say so, in certain respects—I would say that he has made statements—I would not say deliberately—which are grossly misleading, creating an absolutely wrong impression in the mind of the public. What I feel is that he has been guilty of a flagrant breach of the privileges of this House by making statements which would give the impression to members of this House that something has happened in connection with what he has been moving, and which is actually absolutely different from what he has stated. For example, I will refer to his speech where he says "Cases of raping of Hindu women were not few and far between. Filthy languages in some instances were used against Hindu ladies, and in one case the wife of a Hindu graduate Head Master of Sonamuri High School was forcibly dragged out and criminally assaulted." Now, Sir, how heinous the conduct of the honourable member is in making a reference to this case will be seen when I tell this House that this case could by no means be cited as an instance of Muslim excesses against the Hindus. This is supposed to be a case which had taken place while this Government has been in power. That is how it will go out in the papers; that is how it will be understood by members of this House and by the public; and when contradictions will be sent to the press, they will not be published as a rule. I doubt very much whether even my statement will get the prominence which the speech of the honourable member has got and whether the statement will be put all over India so as to show how deliberately people are trying to mislead the public and to create a feeling against the Government. Sir, this case took

place some time in 1935 or 1936 or a little later (Mr. HAMIDUL HUQ CHOWDHURY: No, it took place in 1934), or even earlier, about 5 or 6 years ago. The honourable member gets up to make a speech on a resolution referring to the actions of this Government and refers to an incident that took place in 1934, and when challenged (Mr. LALIT CHANDRA DAS: I never mentioned this Government) and when challenged about dates—I asked him about the date, and it was after this that he made his speech, he remained silent, all the while trying to create an impression that it was a case of rape by Muslims on a Hindu woman. Actually, Sir, it was the Hindu and Muslim boys combined of a school who committed this unfortunate crime, and for which they were most severely and drastically punished. The sentences—I am speaking from memory—ranged from seven to four years and both Hindu and Muslim boys were sentenced. There was nothing of a communal nature in this case, nor was it of recent occurrence; it was something that took place in 1934, and that is the way in which this Government is being maligned and attacked. (Cries of "shame shame" from the Coalition Benches.) That is not all.

Now, I will take another statement of the hon'ble member in which he has said that 90 per cent. of the executive officers are Moslems and that they are giving no protection to the Hindus in the district of Noakhali. Coupled with this I will repeat what has been stated by my friend Dr. Radha Kumud Mookerjee. This is what he has stated: "Outbreak of lawlessness and defiance of constituted authority in Noakhali. Many dacoities committed; Home Minister getting a taste of the treatment". Now, before I go on to that, I should like to make the position clear about myself. During the election campaign I went there on behalf of a particular candidate to make speeches and the rival of that candidate was so powerful and had such control over the constitutency that at the two places where I was supposed to hold a meeting, he was able to organise such a complete boycott of the meeting that in one place there were about 100 people and in the other place there were only 5 persons present. That was all. No violence, no abuse, merely a demonstration of black flags and shouts of "go back". Beyond that nothing that was disrespectful or lawless was done.

Dr RADHA KUMUD MOOKERJI: I am glad to hear it.

The Hon'ble Khwaja Sir NAZIMUDDIN: Now, as regards the outbreak of lawlessness and defiance of constituted authority, before these things can be established, before Government can go to the length of making an enquiry, I may state here straightaway that if there was any justification whatsoever, if any member could give anything to justify the holding of an enquiry, Government will not simply hold a white-washing enquiry but Government will be prepared to hold an

enquiry by people whose reputation cannot be questioned and, if necessary, even people from outside this province will be brought in for the purpose of such an enquiry. But the condition precedent to such an enquiry is that there must be some justification shown, there must be some facts proved, something tangible shown, which will justify the holding of an enquiry.

Dr. RADHA KUMUD MOOKERJI: Why cannot Government collect facts?

The Hon'ble Khwaja Sir NAZIMUDDIN: Please do listen. Before an enquiry is held we have got to look at the charges. What is the sum total of the charges? There has been an outbreak of lawlessness; that is all. If you go to the utmost length, what do you find in the speech of Mr. Lalit Chandra Das, or in the representations that have been submitted and in the speeches made by Dr. Syamaprasad Mookerji in the Hindu Mahasabha Conference? Now, to-day I have collected here the figures of crimes from 1932-38 and I will read them out. I will ask the House and the public to judge whether there is any the slightest justification to assume that the crime-record in the Noakhali district is in any way abnormal. Is there anything more than what is taking place in the other districts of Bengal? I would submit, and the House would be surprised when I tell them, that actually during 1938 the number of some of the most heinous crimes in the Noakhali district was much less than what it was in 1935-36. I will come to the figures later on.

Now, Sir, similarly in the history that has been given by Mr. Lalit Chandra Das, in the representation of the Hindu Mahasabha and in the various speeches that have been made, an attempt has been made to give an impression that from 1932-39, conditions which have been created in Bengal are such that life and property of the people are not safe and very surreptitiously it is shown that in the main it was an agitation by the so-called Krishak Samity against the zemindars and the *mahajans*.

Mr. HUMAYUN KABIR: Why so-called?

The Hon'ble Khwaja Sir NAZIMUDDIN: For them it is so-called. I will tell you what the truth is. They want to make out that it was a communal thing. They want to make out that it was an agitation of the Mussalmans against the Hindus. But what actually are the facts? The history that was given by Mr. Das and the history that has been given in the Hindu Sabha representation that has been published in all the papers shows clearly that it was the Krishak Samities of Noakhali who had taken up the cause of the poor oppressed tenants and who have

been for generations oppressed and suppressed by the zemindars and *mahajans* of Noakhali. Sir, I have, excepting the Tippera district, practically been to all the districts of Bengal during the last 8 or 10 years, and before the general election when the Krishak Samities were very much in vogue, I went particularly into the *modus operandi* of these Krishak Samities in all the districts of Bengal, and I can state without any fear of contradiction that the Krishak Samities of Noakhali were the most organised, *bona fide* and genuine Krishak Samities working solely to redress the grievances of the tenants and the Krishaks of Noakhali. It was made out on the one hand that they were anti-Government and on the other that they were communists and against payment of rents and all legal dues. This was entirely false and so much so that before this Government assumed office—I am now referring mostly to what took place between 1932-37—I paid two visits and one of them expressly at the request of Sir John Anderson to study the Krishak problem in Noakhali, because the reports that were coming at that time were most alarming. And what was I told, when I went and saw the leaders of the Krishak Samities? At that time it was represented to me that it was they who were being oppressed, that the zemindars and the *mahajans* combined and in every crime that took place, attempts were made to implicate the leaders and their office-bearers and actually cases were brought against them. And the extraordinary thing I find now—a justification of what these people had said—in the fact that in the Mahasabha representation which was submitted to His Excellency Sir John Woodhead it was stated that most of these cases ended in acquittal. Do they mean to suggest that the entire police, the entire magistracy, the judiciary and last of all the High Court, they all combined in favour of the Muslims, in favour of the Krishak Samities against these people? Sir, if you study the number of officers, the people who were in charge of the district at that time, what will you find? You will find that mostly the District Magistrates were non-Muslims. From the year 1931 to the beginning of 1934, the District Magistrate was Mr. Nurannabi who was a Muslim. After that we had the following District Magistrates, not one of whom was a Muslim, till 1939.

Mr. Nurannabi Chowdhury was District Magistrate from 28th October, 1931 to 30th April, 1934.

In this connection, I would just say one thing. It may be a very little thing, but it shows either carelessness or ignorance on the part of those people who are trying to create this agitation against Government. In the representation that was submitted to His Excellency it was said that in 1935 representations were made to transfer Mr. Nurannabi Chowdhury from Noakhali, whereas he left Noakhali on 30th April, 1934. When he had left the district in 1934, it is said that he actually left the district in 1935. After Mr. Nurannabi Chowdhury, we had

Mr. Whittaker, who was there for nearly a year. Mr. K. K. Hazra was there for a short period; Mr. P. D. Martyn was there for about a year; Mr. R. A. Dutch was there for about three quarters of a year; Mr. S. K. Halder for four months, and Mr. R. K. Mitra for two years.

Now, about Mr. Mitra who was posted there before this Government took office, the question arose after the assumption of office by the present Government whether he should be retained there or not, because he was a junior officer in charge of the district and there were senior officers who had to be given the charge of a district. It was I who kept him there in charge of the district in spite of the fact that he was a junior officer and in spite of the fact that there were senior men. Mr. R. K. Mitra was there as District Magistrate from 3rd March, 1937 to 2nd March, 1939. Now, I would ask you to remember this date—3rd March, 1937 to 2nd March, 1939. During this period the District Magistrate was Mr. R. K. Mitra, a Hindu gentleman. Mr. Ishaque was there for two months from 3rd March, 1939 to 30th May, 1939. Since then from 1st June, 1939, we have got Mr. Hamid Ali.

During this period the following District Judges were in charge:—

(1) B. M. Mitra, I.C.S., 13th November, 1931 to 23rd March, 1932.

(2) S. N. Guha Roy, I.C.S., 24th March, 1932 to 9th September, 1932.

(3) Nani Gopal Mukherji (temporary), 10th September, 1932 to 7th November, 1932.

(4) J. De, I.C.S., 8th November, 1932 to 19th May, 1935.

(5) K. K. Hazra, I.C.S., 20th May, 1935 to 20th October, 1935.

(6) M. K. Kripalani, I.C.S., 30th October, 1935 to 24th February, 1936.

(7) Naranath Mukherji, 25th February, 1936 to 16th November, 1936.

(8) E. B. H. Baker, I.C.S., 17th November, 1936 to 16th February, 1937.

(9) S. K. Sen, I.C.S., 17th February 1937 to 2nd May, 1939.

(10) Suresh Chandra Sen, 3rd May, 1939.

Now about the police officers.

Khan Bahadur Amir Ahmad was officiating Superintendent from 24th April, 1931 to 1st January, 1934. After that we had Mr. Bankim Chandra Das Gupta, Rai S. C. Banarji Bahadur, Mr. W. A. B. Price, Mr. E. Springfield, Mr. D. Bhattacharji and Rai Sahib M. L. Adhikari. We had Mr. S. A. H. M. Ismail for two years; then Mr. A. N. Ganguly, and now we have Mr. A. J. Kennedy.

Then from 1935 to 1938-39 the Deputy Superintendents of Police were Rai Sahib M. L. Adhikari, Babu Pani Bhusan Banerji and Babu M. C. Sarker.

Sir, I have already told the House that Mr. Das stated that 90 per cent. of the executive officers are Mussalmans and that they are not giving any protection to the Hindus. The number of police officers who count, I will give you. In 1937, there were five Hindu and one Moslem Inspectors of Police; in 1938 there were five Hindu Inspectors of Police and one Muslim; and in 1939 the Inspectors of Police were four Hindus and one Muslim—perhaps there may be two, but we are not sure of the figure.

Now, Sir, as far as Sub-Inspectors of Police are concerned, I have got the figures from 1932.

	Hindus.	Muslims.
1932	19	10
1933	18	13
1934	19	14
1935	18	12
1936	19	11
1937	20	8
1938	13	13
1939	14	15 or 16

Mr. LALIT CHANDRA DAS: So there is progressive deterioration.

The Hon'ble Khwaja Sir NAZIMUDDIN: And it is not 90 per cent. of Muslims! Do you object even to this?

Now, I come to the crime figure. This, I consider, the most crucial thing—the sum-total of the charge that there has been lawlessness in Noakhali.

Khan Bahadur ATAUR RAHMAN: What is the percentage of Muslim population at Noakhali?

The Hon'ble Khwaja Sir NAZIMUDDIN: 70 to 80 per cent.

I have taken just at random four districts, one from North Bengal, one from West Bengal, one from East Bengal—Bakarganj and Noakhali. I have taken Noakhali, Dinajpur, Bankura and Bakarganj.

Dr. RADHA KUMUD MOOKERJI: What kind of crime?

The Hon'ble Khwaja Sir NAZIMUDDIN: Riot.

	1932.	1933.	1934.	1935.	1936.	1937.	1938.
Noakhali ..	30	28	20	19	10	21	12
Dinajpur ..	17	27	16	12	10	17	19
Bankura ..	8	7	4	7	8	10	14
Bakarganj ..	94	56	68	83	76	81	90

Now, I am going to take up "Murder".

Mr. HUMAYUN KABIR: Bakarganj ought to have been excluded from the list.

The Hon'ble Khwaja Sir NAZIMUDDIN: I want to show that there is no abnormality. "Murder" is most important. I am going to place the figures of Noakhali as compared with those of Bankura which is a district of the same size and which has got an overwhelming Hindu population—practically 90 per cent. Hindus or it may be 95 per cent., as I am told.

	1932.	1933.	1934.	1935.	1936.	1937.	1938.
Noakhali ..	13	12	9	8	10	7	5
Bankura ..	13	12	11	13	5	7	9

Now, I will take up "Culpable Homicide".

	1932.	1933.	1934.	1935.	1936.	1937.	1938.
Noakhali ..	7	8	5	6	9	9	1
Dinajpur ..	10	5	3	7	3	6	9
Bankura ..	5	6	4	8	10	4	2

Now, I come to "Dacoity"—crime against property.

	1932.	1933.	1934.	1935.	1936.	1937.	1938.
Noakhali ..	10	12	18	21	22	17	18
Bankura ..	30	46	54	49	78	32	15

Now, I will take up "Robbery".

	1932.	1933.	1934.	1935.	1936.	1937.	1938.
Noakhali ..	4	7	6	3	5	5	3
Bankura ..	14	13	13	10	25	7	6

Then, I come to "Cattle Theft"—cows being taken away, skinned and afterwards meat sold to Hindus.

Mr. LALIT CHANDRA DAS: Is the Hon'ble Minister reading out the number of cases which went up to Court?

The Hon'ble Khwaja Sir NAZIMUDDIN: I am giving you the list of crimes committed in the district for which there were police reports.

Mr. LALIT CHANDRA DAS: And not punished?

The Hon'ble Khwaja Sir NAZIMUDDIN: I cannot tell you that. All these figures are taken from the Police Administration Report which has come out. Now, the figures as regards "Cattle Theft" are—

	1932.	1933.	1934.	1935.	1936.	1937.	1938.
Noakhali ..	19	20	13	17	29	36	35
Bankura ..	25	26	20	24	16	26	27

Dr. RADHA KUMUD MOOKERJI: Sir, may I know what is the point in mentioning Bankura here?

The Hon'ble Khwaja Sir NAZIMUDDIN: Because abnormality is the point,—outbreak of lawlessness and oppression of Hindus by Muslims. I have taken Bankura because it is of the same size as Noakhali. There would be no point in taking such a district for comparison as Mymensingh which is four times as big as Noakhali in size. So, naturally, the crime figure of Mymensingh will be much more than that of Noakhali. I must take a district which is comparable in size. Moreover, by taking Bankura for comparison, you get one district where the Muslims are in overwhelming majority and another where Hindus are in the same position.

Dr. RADHA KUMUD MOOKERJI: I wish the Hon'ble Minister to consider the social condition of the Bankura district. You have got an experienced Census Commissioner as your Secretary and you may consult him.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I have been able to show not only that as far as officers are concerned, in most of the years under reference Hindu officers had been predominant and much more in number than the Muslim officers, but also that so far as crimes are concerned, there is no abnormality and actually there is no communal tinge that can be given to crimes in Noakhali.

Now, Sir, what has actually happened in Noakhali is this. I want to mention again what I have said before that Noakhali is a district where the people realise that they must make an effort to stop the oppressions and the illegal exactions that are being committed by *mahajans* and zemindars in Noakhali. They formed Krishak Samities and they took up the constitutional method of representing their grievances and resisting the illegal exactions. There is nothing —no proof, no evidence—to show that they took to violence and tried to resist the authority of law. They never came into conflict with the local authorities but they did combine themselves to resist the illegal exactions and oppression and because the zemindars and *mahajans* in

Noakhali found that they were not able to oppress and exact from the tenants in the manner in which they used to do in the past, a hue and cry was raised that these Krishak Samities were guilty of all kinds of crimes and representations were made in season and out of season to Government that they should take steps to suppress them. The effect of the propaganda in 1935 and 1936 was so powerful that Government officers and even experienced District Magistrates were for a time led to believe that these Krishak Samities were communist organisations out for the destruction of the present social and economic structure in Bengal. But at no stage of the growth of the Krishak Samities of which I am speaking was this allegation applicable. There were one or two or a few Krishak Samities organised by the Congress and the detenus which were actuated by communist principles. But the Krishak Samities—the major ones, those which fought elections and got their representatives elected to the Assembly—they were actuated purely by the motive of redressing the legitimate grievances of the Krishaks and the Prajas. They resisted illegal exactions and oppression and it is this resistance on the part of the Krishak Samities that brought the ire and anger of the zemindars and the *mahajans* on these poor people and they were persecuted for a long time until this Government came into power. This Government from the very beginning made it clear to one and all that it stood for the amelioration of the condition of the masses, that it stood for the redress of the grievances of the Krishaks, the Prajas and the poor people (Cries of "hear, hear" from the Coalition Benches.) (Dr. RADHA KUMUD MOOKERJI: And also other classes.) Yes. It is going to treat all classes fairly and equitably. If the charge that has been made against this Government of passing unfair legislation against any community is based on the ground that we have been guilty of giving protection to the masses, that we have been guilty of trying to ameliorate and improve the condition of the masses—if that is what is resented, if that is what we are being accused of, then I plead guilty to the charge and this Government pleads guilty to the charge. We will always try our level best to protect the interests—the legitimate interests—of the masses. We feel that conditions in Bengal cannot improve unless you improve the condition of the masses (Cries of "hear, hear" from the Coalition Benches). That is the whole principle behind all our legislation and I refute most strongly any suggestion that our legislation has been based on communal consideration.

Sir, we claim on behalf of this Government that during the period that we have been in office,—if taken year by year—we have given more employment to the Hindus than has been done by any previous Government in Bengal. We claim that we have given more grants to non-Muslim educational institutions, year by year, than has been given by any Government before in the history of Bengal. We claim that we have kept Law and Order in Bengal and that in spite of these

Krishak Samities which are out to see that their legitimate grievances are redressed, we have assured to the zemindars and to the *mahajans* complete security of life and property. Compare us with what has happened in Bihar and in the United Provinces where zemindars—rather their officers—have been murdered, molested, and oppressed. Compare them with the state of things here. There is not a single man who can some forward and say that as a zemindar or as a *mahajan*, he has, during our period of office, been oppressed or injured or hurt.

Sir, the collections of the zemindars, with improvement in the conditions of the tenants, have gone up, the collections of the *mahajans* have gone up, the collections of the co-operative societies have gone up. While assuring to the Krishaks and the Prajas the redress of their grievances, we have also insisted that they should pay all their lawful dues promptly; and as soon as they were able to pay, they have started paying in spite of the agitation and the attempts that have been made to create an impression that the Krishak Samities and the tenants have got a non-payment mentality. I beg to submit that owing to the influence of this Government over the masses and for what they have done for them, the Prajas and the tenants have come forward to pay, and have been paying, to their full capacity as soon as their conditions have improved. Therefore, to suggest that in Noakhali there has been anything out of the ordinary is not only wrong but absolutely baseless. There is no justification; there is nothing to show either as far as crimes are concerned or as far as any attacks are concerned; there is no justification whatsoever. Repeatedly this Government have asked these people for specific grievances. The hon'ble member has made a lengthy speech; he has had the benefit of hearing speeches made at the Hindu Mahasabha meeting. And yet when he comes up here—and after having given long notice he moves his resolution—has he been able to cite two serious cases of crimes against property or against individuals which are abnormal and which have taken place during 1937-39? What is the sum total of their grievances? One M.L.A. making speeches against the Hindus. Are we to take any notice of this complaint alone and hold the Government responsible because a non-official M.L.A. has exercised his right of speech? Has anything happened in Noakhali? Has there been any bad effect? Have people been murdered? Have people been oppressed because of the speech of the M.L.A.? Government would have come down on the M.L.A. if it was found that there had been any bad effect due to his speeches. Besides, it is extremely doubtful if all that has been attributed to that M.L.A. is correct. We have not had authentic reports of his speeches. And that is the thing. For the last four months, there is no justification whatsoever for any complaint. At the present time, in Noakhali he has not made any speech whatsoever. We have made proper arrangements for recording the speech of that particular M.L.A. and

for the last four months there has been no speech made by that M.L.A., to which exception can be taken. But even now this agitation has been continually going on.

Let me cite the case of Feni which I have already stated once before.

Mr. LALIT CHANDRA DAS: What about the riot in the Feni subdivision?

The Hon'ble Khwaja Sir NAZIMUDDIN: It was not a riot. Some people about 100 or 200 got excited over a rumour and invaded a particular village and within five hours of that the Subdivisional Officer went there and took the evidence of the people whose houses were entered into. They said that it was the Mussalmans of the village who offered to protect them against looting—that is the word which the hon'ble member has used. May I tell the House about the claims of the parties whose houses were damaged or supposed to have been damaged? What was the sum totol of the damage that they themselves put it at without cross-examination, without verification? What was their own claim? A magnificent sum of Rs. 26. That was the sum total of the damage that has been done: that was the sum that was mentioned in the police record. Rs. 26 was the sum total of that damage that was done. Look at the "ooh! ah!" made over that. It has been shown that it was an engineered thing. Cases have been going on against that. Deliberate attempts have been made to implicate people and bring false charges in that Feni case. What was it that actually happened there? The people went in, they entered the houses and they found the rumour false. Not a hair of any person was touched. And yet all this continual propaganda has been made over the Feni rioting. Not a hair of a single person was touched, and the sum total of the damage was only 26 rupees. That is all the Feni trouble, and that is supposed to have created a very serious Hindu-Moslem situation. They themselves say that the Muslims who form 90 per cent. and a handful of Hindus are living there. Nothing is happening to them. And yet we hear day in and day out this continuous agitation deliberately making an attempt, almost wishing that something may happen, so that it may give them a chance against this Government. But they have not got a definite case. Look at the representation that has been submitted. I would ask any member of this House to go through it and the speeches made and point out that during our term of office something has happened for which this Government could be held responsible or where the Government refused to take proper steps to see that it did not take place. Not one instance excepting that an M.L.A. has been making speeches. The writings in the Congress press and the speeches made by the Labour leaders

are ten times worse than what the M.L.A. is supposed to have said. I am sure no responsible Hindu gentleman will ever admit that they are terrified by the speeches of one single gentleman. It is a calumny on the Hindus of Noakhali. They will be the first to refute it. It is a few handful of gentlemen interested in the whole affair to create an agitation who have created this extraordinary thing in the whole of Bengal giving the idea that the Hindus of Noakhali are terrorised. I have got the reports of the Commissioner and the Collector. There is nothing there at the present time. For a short period there was some tension. But which district is there in Bengal where for a short period owing to something special happening, there was no tension? The tension of feeling is always there.

Dr. RADHA KUMUD MOOKERJI: What was the tension due to?

The Hon'ble Khwaja Sir NAZIMUDDIN: The tension of feeling may be there because of the speeches, if you like, I admit. The tension of feeling may be there. But has anything serious happened? By the grace of God, no. I am afraid, men like the hon'ble member who has moved this resolution are deliberately trying to create something and wishing something to happen. That is the attitude of the Mahasabha and that is the attitude of the hon'ble member. I submit that Government, as I have already stated, will be prepared at any time to have an absolutely impartial enquiry, provided somebody would come forward and say, "Here are these things which are inexplicable, for which you cannot account, because something out of the ordinary is happening in Noakhali and it should be investigated." Then we would be prepared to undertake the enquiry. As I have been able to show, there is nothing out of the ordinary happening. What are we going to enquire into? Therefore, I hope the House will give a clear verdict to-day. I appeal to my friend the Maharaja of Nashipur and to his group that here in Bengal we have been able to show immunity from oppression of any kind to the zemindars and people with vested interests, and it is their duty to support the Government when that Government is attacked. And to my friends on the left, I have put this acid test. The vote to-day is not a vote on communal consideration; it is a vote on the question whether you are supporting the vested interests against the redress of legitimate grievances of the tenants, Krishaks and Prajas. If to-day you vote—because the entire history of the representation is based on that—it is Krishak Samities against the *mahajans* and zemindars—and if to-day you cast your vote in favour of this resolution, then I will maintain that you are out to suppress and oppress the masses and the Krishaks and not prepared to redress the legitimate grievances of the masses. That is the meaning,

that is the construction, that will be put because it was characterised as an agitation that was started by the Krishak Samities against zemindars and *mahajans*.

Mr. HAMIDUL HUQ CHOWDHURY: Sir, I owe it to my district; both to Hindus and Muhammadans, to add a few words of protest against the attitude that has been taken up in moving this resolution by Mr. Lalit Chandra Das and to protest most emphatically and deny the allegations that he makes in his resolution urging an enquiry into the causes of strained relations between the Hindus and Muhammadans in the district of Noakhali. I say, Sir, and most emphatically say that so far as the Mussalmans and Hindus are concerned, their relations are as amicable as possible. As between community and community, there are no strained feelings but as between individual and individual there may be, and there is no district in Bengal or no place in the world where there had not been cases of individual quarrels, personal vendettas and vengeances. But so far as our district is concerned, it will be a reflection on our district, on both Hindus and Muhammadans, to say that their feelings are strained on account of some activities of an individual member. The speech of Mr. Das from beginning to end is a charge against the Krishak movement. The history of this movement in our district commences from 1932. It was a movement which was a direct off-shoot of the Civil Disobedience Movement, a movement which encouraged divisions of political ideas and ideals on economic grounds. That was a division which was made by the Congress and that started the movement. Fortunately or unfortunately, in the district of Noakhali, the Muslims form about 78 per cent. of the population and most of them are poor cultivators. The economic oppressions and economic injustices are felt more by the Muslims as a community than by the Hindus, The Hindus in Noakhali, as everywhere else in Bengal, are in an upper strata of the society and economically they are much better off than their poor Muslim brethren. That was the reason why the Congress in 1928 took the side of the Hindu zemindars in the fight in the old Council over the Tenancy Bill. That was the reason why no less a person than Pandit Jawharlal Nehru had to take the Congress and the Congress Party to task for siding, in the name of keeping the balance between interests, with the biggest vested interests in the province against the oppressed masses of Bengal. The reason why they took that attitude was entirely on a communal consideration because the richer class and the capitalist class were drawn from one section of the people, namely, the Hindus. The Hindu politicians forgot the interests of the poor Hindus. They forgot the interests of the Muslim masses. They aligned themselves with the richer class which wholly belonged to the Hindu community. In 1932, the Krishak

movement began, with a sprinkling of Hindus joining it. But the majority of the members of the Krishak Samiti were Muslims. There are Hindu *Mahajans* in every village of Bengal. The *mahajans* took the opposite attitude. The *mahajans* and the zemindars had the advantage of getting nearer to the official quarters and the officialdom, as has been shown by the Hon'ble Sir Nazimuddin, was mostly manned by the Hindus. The movement was maligned at every stage. The movement was stated to be a communist movement, a revolutionary movement and to suit the purpose of some it was described as a communal movement. A large number of cases began to crop up between 1933 and 1936 and in many of these cases which came up to the High Court of Calcutta I had to appear for one side or the other, as a lawyer. So, I have some knowledge of the movement that was started by the vested interests to crush the Krishak movement out of existence.

So, it was alleged on behalf of the Krishaks that the Hindu money-lenders and the Hindu zemindars had aligned themselves with the Hindu officers of the district, both Police and Magistracy, who were systematically sending these poor people to jail on false pretexts. Bolstered-up cases of dacoity or riot were brought against them and convictions were obtained, some of them ending in acquittal in the Sessions Judge's Court and some of them ended in acquittal in the High Court. Mr. Lalit Chandra Das in a round figure says that from 1932 to 1939, the following classes of crimes were committed, e.g., paddy-cutting, murder, dacoity, rape and so on. Is there any district in Bengal where there is no paddy-cutting case? Crimes are committed by Hindus against Muslims, or by Muslims against Hindus, or by Hindus against Hindus or by Muslims against Muslims. Is there any caste or colour division in crimes? Is there any district in which there is no murder, in which there is no dacoity? Is there any district in which there is no raping of women or abduction of women? I submit, Mr. Das who comes from Comilla can show no better result at Comilla than at Noakhali. Therefore, it is a defamation against my district to say that the Muslims of that district are guilty. He said roundly that in 1933-34, there were 8 cases of murder. He said that a Muslim was responsible for one of these murders and for the remaining 7 cases, Hindus must have been responsible because he was silent over that. So, it is a reflection on the Hindus of Noakhali as well. He has cited cases of paddy-cutting, of assault on peons, of riots and so on. These are cases mostly of 1932, 1933, 1934 and 1935. These are cases, I admit, mostly against officers of the Krishak Societies and the allegation of the Krishak Societies, as I have stated, is that these were false cases brought up by interested and powerful parties with the help of the Police. Evidence was created and innocent people were sent to jail. Sir Nazimuddin has cited one case of rape on a Hindu lady. I appeared

for the defence in that case. I appeared for Hindu as well as for Muslim accused. Three were Hindus and 4 Muslims. The grievance of these boys was that they were not sent up after the Test Examination held that year to appear at the Matriculation Examination of the Calcutta University, and being aggrieved, they took vengeance upon the poor Head Master's wife. They dragged the woman and raped her. The accused were both Hindus and Muslims. Therefore, that is a reflection on the Muslims as well as on the Hindus and to say that the entire Muslim community or the entire Hindu community of the district are responsible for the crime is a great defamation against a whole host of people. Mr. Das knows that this is an attempt—rather a belated attempt—to bring this matter before the House. This happened between 1933 and 1936 and why is it that in the year 1940 this matter is ventilated? Has it got any other reason behind it? Why is it that on the very fast day when Mr. Das came to this House, he did not tell the House of things which happened only 6 months or a year before? Why is it that he has taken this matter up in 1940? Is it because that there is a movement in the province under the auspices of the Hindu Sabha who have brought these allegations to chastise the entire Muslim community by distorting and misrepresenting facts by ambiguously saying that the Muslims of the whole province are responsible for such heinous crimes against innocent and docile Hindus? Is it for awakening among members of the Congress Benches the same feeling, the same attitude and the same outlook upon the problems of this province? As Dr. Mookerji has said, this is an attempt to create a counterblast against the allegations which have been made of oppression by Hindus in other provinces. I admit that is possibly the only reason. I admit further that Mr. Das perhaps unconsciously is aligning himself and his whole party with the movement, with the attitude and with the outlook of the Hindu Sabha. Mr. Das seems to forget that by resorting to such tactics the Congress will forfeit the right of claiming that they are a body which is not a purely Hindu body or which is not a purely Muslim body but a body which represents nationalist opinion, nationalist views and national outlook on all problems. Therefore, Sir, the Congress is either true to its own ideals and Mr. Das is false to his party, or the Congress is false to its ideals and it is a subterfuge which it is playing in the interest of the Hindu community under cover of different names. (Cries of "hear, hear" from the Coalition Benches.)

Therefore, I expect that the whole Congress Party will record their emphatic protest against the resolution of Mr. Das by voting against the resolution of Mr. Das and will ask Mr. Das to apologise to the people of the district of Noakhali.

Mr. LALIT CHANDRA DAS: Sir, I would place certain facts before this House in reply to the speech which has been made by the Hon'ble Home Minister and the Hon'ble Chief Minister and by some

other honourable members of this House. They have totally overlooked the terms in which I have couched this resolution, and instead of looking into the form of the resolution that I made they digressed themselves into a perfectly different channel and gave it a colour which was never my intention to give when I moved it. My resolution, Sir, is a very simple one. It makes a demand for a committee consisting of representatives of all parties of the legislature. It further says that that committee which is to be presided over by a High Court Judge, will enquire into the causes of strained relations between the Hindus and Muslims in the district of Noakhali and suggest remedies. In giving reply to my speech, a communal colour has been given by the Hon'ble Home Minister which I had never intended to do.

Sir, you will kindly permit me to take one by one the statements which have been made by the Hon'ble Home Minister. I began my speech by giving a detailed history of the movement. Not only that. I confined my remarks also to the period between 1937 and 1939, i.e., during the period the present Government took office, but I traced the origin of the movement to a period from 1932 onwards. As a matter of fact, the speech which has just been delivered by the Deputy President has confirmed my statement that the movement originally started from 1932 onwards with the Krishak Samiti and had connection with the Civil Disobedience Movement. This is what I referred to in my speech. So, when I begin to trace the history of the movement from 1932, it is not to be expected that the cases that I recited would only refer to cases that took place during the period between 1937 and 1939. Naturally enough, it must relate to some cases which were exceptional in their nature, some cases of oppression by Muslims on Hindus during a period anterior to 1937. Sir, emphasis has been laid not only by the Hon'ble Home Minister but also by Khan Bahadur Rezzaqul Haider to a case which I cited, namely, the case of the wife of the Head Master of Sonamuri High School. That case was undoubtedly of the year 1934. That case ended in conviction and that case was certainly of a very serious nature. Now, Sir, when I traced the movement, I traced the history of the movement from 1932. So, it was natural that I should refer to some cases of a period anterior to 1932, but what is pertinent also is whether I have referred to cases of the period during which the present Government took office. I submit, Sir, that I certainly did refer to them. And, Sir, when I made my speech the Hon'ble Home Minister actually challenged me to give instances when such incidents took place, and I took up the challenge and pointed to a large number of cases. Altogether there were 140 cases of paddy-cutting by Muslim mob and the time to which they related was Aswin, 1846, i.e., the year 1939. In answer to a question of mine that was put in this House regarding the strained relations between the Hindus and Mussalmans, the Hon'ble Home Minister made a statement, namely, that the condition of Noakhali is

now normal. Those were the words "now normal". I put the question to the Hon'ble Home Minister "when was it abnormal?" He had to admit that the situation at Noakhali was abnormal before and he further stated that the period of abnormality was only for six months, while we assert that the period was six years. He stated the period as six months in 1939. If there was an abnormal situation in 1939, the case of Government is that it has now become normal. We say that it is still abnormal. That is the only difference between us and the Government.

Now, with regard to recent happenings, I actually gave the date of a meeting in regard to which there has been only a sort of apology on the part of the Hon'ble Minister, but no reply. It has been asserted by the Hon'ble Home Minister that speech was made by only one M.L.A. I say "no". Several M.L.A.'s took part in this meeting which had been organised to bring about strained relations between the Hindus and Mussalmans. Sir, we listened the other day to the reply given by the Hon'ble Home Minister with regard to the transfer of Subdivisional Officers from Noakhali. That was of very recent occurrence. It appears from the reply of the Hon'ble Home Minister that in making transfers also he was moved by statements made not only by Maulvi Golam Sarwar but also by three other M.L.A.'s of the Coalition Party for the purpose of retaining an officer who was ordered to be transferred by the Divisional Commissioner. Moreover, Sir, I referred to an incident of October, 1938. That meeting was not presided over by Maulvi Golam Sarwar but by another M.L.A. I stated that in October 1938, a meeting was held at Basurhat within thana Companygunge under the presidency of a Moslem M.L.A. of Noakhali—for the moment I do not mention his name, but if the Hon'ble Home Minister wants I would like to tell him—at which more than one Maulvi made inflammable speeches and referring to the demolition of the temple of Sarnath urged the audience to re-enact such heroic deeds with regard to Hindu temples in the district. At that meeting boycott of Hindu shops was also advocated. There was police report but no action was taken by Government although detailed reports of the speeches delivered there appeared in the "Desher Vani" and the "Ananda Bazar Patrika". That was an incident, Sir, which took place during the time of the present Government. I also referred, Sir, to three other recent occurrences. In April, 1939, a certain M.L.A. delivered a speech at Lamchar in thana Ramganj which in point of virulance beat all previous records of communal performances. It is reported that besides inciting the Moslem labourers to boycott the Hindus he even traduced the Hindu goddesses and declared that a certain Hindu Magistrate was reduced to the position of a mere clerk in the Secretariat at his instance. There was another incident of recent occurrence at Sandip where the Hindus could not carry on the Dussera procession

for the purpose of immersing the goddess Durga and that case is well-known to the Hon'ble Home Minister. That was a case of Sandip.

Not only in April, 1939, but also on 3rd September, 1939, and on 13th August, 1939, incidents of this nature took place.

So far as recent occurrences are concerned, I cited 140 cases of paddy-cutting.

I also cited four instances where M.L.A.'s took part in bringing about strained relations between the Hindus and Mussalmans. My resolution is only to enquire into the causes of the strained relations between the Hindus and Mussalmans. The speech of the Hon'ble Home Minister how an enquiry is being avoided by the Government. Am I to understand, Sir, that the Hon'ble Home Minister is the head of this Government or the Hon'ble the Chief Minister is the head of this Government?

There should not be two voices speaking in this House. There must be one head of the Government, and that head is the Hon'ble Mr. Fazlul Huq. I ask the hon'ble members of this House to hear patiently what the Hon'ble Mr. Fazlul Huq stated with respect to Noakhali incidents. On 30th November, 1939, the Hon'ble Mr. Fazlul Huq stated: "In all seriousness I make this formal request to Dr. Shyamaprasad Mukherji and Mr. B. C. Chatterji to furnish me with concrete instances of alleged oppression on the Hindus to which they and the Hindu press constantly allude." That challenge was taken up by Dr. Mukherji and Mr. Chatterji. After they gave details of oppression on the Hindus by Moslems and the same were published in the press, the reply that came from the Hon'ble Mr. Fazlul Huq, the Chief Minister, was published in the press as an official communique. Mark the words "official communique". The hon'ble members must not forget this when they decide about this issue whether there should be a committee to enquire into the strained relations between the Hindus and Muslims. This is what he said. "I am grateful to my friends Mr. B. C. Chatterji and Dr. Shyamaprasad Mukherji." Instead of condemning, as the Hon'ble the Home Minister has done, he ought to have concluded as he began his speech by expressing his gratefulness to me for having brought this resolution. Indeed, gratefulness was expressed by the Hon'ble Chief Minister to Dr. Syamaprasad Mukherji and Mr. B. C. Chatterji when they gave details of instances of oppression on Hindus by the Moslems—"I am grateful to my friends Mr. Chatterji and Dr. Mukherji for the statement they have made giving what they consider instances of oppression on Hindus by the present Government. I say nothing at the present moment on the merits of these charges, because I do not wish to prejudge the issue. But let me assure my friends that when an enquiry is made, amplest protection will be given to any one coming forward to give evidence and that the fullest guarantee will

be given that there will be no victimisation of persons merely because they may make any statement against the administration."

I ask the hon'ble members of this House, is not the Hon'ble Mr. Fazlul Huq, the Chief Minister of the Government of Bengal? The Hon'ble Mr. Nazimuddin speaks in one voice and the Hon'ble Mr. Fazlul Huq spoke in quite another voice. He accepted the charges made by Dr. Mukherji and Mr. Chatterji. My charges before this House are not very different from theirs, as the Hon'ble the Home Minister has himself admitted. The charges were made, the challenge was accepted and the promise was made that they would be enquired into by a committee. And now speeches are being made before the hon'ble members of this House to avoid what is apparent, namely, an enquiry which any Government should be very glad to accept in order to clear the Government of such charges, to clear its administration of Noakhali.

Dr. RADHA KUMUD MOOKERJI: On a point of information, Sir. Was an enquiry promised by the Chief Minister?

Mr. PRESIDENT: The Hon'ble Chief Minister is not here.

Dr. RADHA KUMUD MOOKERJI: Since it is a Government communique, may I know whether the Home Minister accepts the Government communique?

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the hon'ble member kindly read the communique where an enquiry was promised?

Mr. LALIT CHANDRA DAS: The Hon'ble Mr. A. K. Fazlul Huq has issued the following statement to the press:—

"I am grateful to my friends Mr. B. C. Chatterji and Dr. Shyamaprasad Mukherji for the statement they have made giving what they consider instances of oppression on Hindus by the present Government. I say nothing at the present moment on the merits of these charges because I do not wish to prejudge the issue. But let me assure my friends that when an enquiry is made, amplest protection will be given to any one coming forward to give evidence and that the fullest guarantee will be given that there will be no victimisation of persons merely because they may make any statement against the administration."

Sir, can there be a more clear statement?

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is it not an enquiry by a departmental officer?

Mr. LALIT CHANDRA DAS: If this promise on the part of the Chief Minister is sought to be evaded, we cannot charge even the British Government with evading promises like that: promises that are made to the ear are broken to the heart.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is it a promise?

Mr. LALIT CHANDRA DAS: Yes, it is a guarantee of even safeguarding the witnesses who will come to give evidence for disclosing facts.

Mr. PRESIDENT: There is a time-limit. You must conclude your speech.

Mr. LALIT CHANDRA DAS: The Hon'ble the Home Minister has told you the number of officers and other things. He has also given you the ratios of offences that were committed in different districts—these are far from relevant for the purpose of the resolution just before you. You may remember the condition of Noakhali as described by the Deputy President, that Muslims form 80 per cent. and the Hindus a minority. In my speech I have stated that the Hindus have been completely demoralised. Several reports have been made to the police but they did not take any cognisance of these offences, with the result that there have been many unreported cases. Because such statements were made before the Hon'ble Chief Minister, he promised an enquiry and said that amplest protection would be given to those who would disclose any statement or instances of oppression. The Hon'ble Chief Minister admitted these charges, although not the truth of the charges, and he really agreed that Government should be given an opportunity of clearing themselves of these charges. When such a charge has been made both inside and outside the House, when the head of the Government has accepted the proposal for a committee, that proposal for a committee should be accepted by the Government. No speech should have been made in this House in respect of the white-washing committee. Once a promise has been given by the Hon'ble Chief Minister, the Hon'ble Home Minister cannot go back on that promise.

Mr. PRESIDENT: Order, order. The question before the House is: this Council is of opinion that an enquiry committee with the power to take evidence be formed consisting of some members of both the Houses of Legislature, not exceeding eight in number, representing all parties and presided over by a High Court Judge to enquire into

the causes of strained relations between the Hindus and the Mussalmans in the district of Noakhali and to suggest remedies, and be directed to submit its report by the 31st January, 1940.

(The resolution was negatived.)

NON-OFFICIAL BILLS.

The Bengal Patni Taluks Regulation (Amendment) Bill, 1938.

Khan Bahadur REZZAQUL HAIDER CHOWDHURY: Sir, I beg to move that the Bengal Patni Taluks Regulation (Amendment) Bill, 1938, as reported by the Select Committee, be taken into consideration.

Sir, in this Bill, I think, no radical change has been proposed. Without entering into the origin of the Patni Regulations which is well-known to us all, it can be said that the law was enacted in 1819 just to meet the requirements of the time as a coercive process of realising rent. Some of the provisions, Sir, are so stringent that they cannot be justified by any canon of justice. It is with the object of removing these long-felt grievances that the Bill has been introduced. I shall, in short, place before you some of the main provisions of the Bill.

The right of alienation has been declared to vest in the holder of a *patni taluk* but upon alienation or transfer by *patnidar*, the zemindar may refuse any registry of transfer until the fee and substantial security are given and accepted. This provision of security is now equally applicable in all cases of transfer including the sale for arrears of rent. Sir, further than that, it empowers the zemindars to take possession of the property if the security is not tendered within one month. To my mind there is no justification for a provision like that. Both the original *patnidar* and transferee suffer a lot of inconvenience owing to this provision. Refusal by the zemindar to register the names of the transferee results in various complications and difficulties. The obligations of the original *patnidar* will stand and the property will be sold in the name of the original *patnidar* and sometimes it is very difficult for the real owner to know about the same. Moreover, the zemindar can put the property to sale and refuse to accept the rent even when the property is on the sale list.

The next important provision which has been incorporated is for a separate account by co-sharer *patnidars*. Sir, each sharer in a *patni* where he is a sharer in a joint *patni* or the holder of a substantial portion of a *patni* should have the means of acquiring the privilege of protecting his share of rent by paying his portion of the rent due to the zemindar. I believe if this privilege be given it will be a simple

act of justice to the honest and solvent co-sharer to give it to him and to secure him from being made a victim of fraud or neglect of his co-sharer. This privilege is enjoyed by the zemindar and this is a principle which has been accepted in amending the Bengal Tenancy Act of 1939. So, there cannot be any legitimate objection to this provision in the Bill.

Then, Sir, the next short but important change that is proposed is regarding the power of the Collector in conducting the *Patni* sale. By this we give the power to the Collector to accept the money from the defaulting *talukdars* just to avoid the sale. These are the important provisions which are embodied in this Bill and my demand is very modest. I request the hon'ble members to take into consideration the Bill as settled in the Select Committee.

Mr. PRESIDENT: Before putting this motion to the House for consideration, the Chair feels a difficulty. The Bill contemplates some modification of the rights in land and this comes under the mischief of section 299, sub-clause (*3*) of the Government of India Act, which runs as follows:—

"No Bill or amendment making provision for the transference to public ownership of any land or for the extinguishment or modification of rights therein, including rights or privileges in respect of land revenue, shall be introduced or moved in either Chamber of the Federal Legislature without the previous sanction of the Governor-General in his discretion or in a Chamber of a Provincial Legislature without the previous sanction of the Governor in his discretion."

At first sight, it seems that clause 4 of the Bill, as reported by the Select Committee, will in a way interfere with or modify the rights of the zemindar and in that case, the previous sanction of His Excellency the Governor in his discretion will be necessary before I place this matter for the consideration of the House. I should like to hear what the Government have to say in the matter.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, Sir. That point is certainly not free from difficulty, because the Bill has been thoroughly overhauled, if I may say so, by the Select Committee, and several provisions have been introduced in the Bill which are of a very far-reaching character, and as you have been pleased to observe, Sir, in my mind too I have doubts and I feel that some of these provisions do infringe section 299 of the Government of India Act and as such they require the previous sanction of the Governor.

Khan Bahadur REZZAQUL HAIDER CHOWDHURY: Sir, With due respect, I differ from you on this point. Clause 4 refers to separation of accounts without recourse to division of tenures.

Mr. PRESIDENT: The zemindar had a right under the Regulation to claim the entire rent from any of his *patni taluks* proprietors, but under your Bill it is contemplated that he can claim his entire rent proportionately from the partners and not as before realising the whole rent from one particular sharer who is in a position to pay it. You see the difference. There may be a sharer who is bankrupt.

Khan Bahadur REZZAQUL HAIDER CHOWDHURY: May I point out, Sir, that sub-clause (*6*) of clause 6A says that unless one of the co-sharers pays the rent, the entire *patni* will be put to sale? As a matter of fact, there is practically no division of tenures.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: No, Sir. May I draw the attention of the honourable member to the clause in which it has been said that the provisions of section 88 of the Bengal Tenancy Act shall apply *mutatis mutandis* to the division of a *patni taluk* according to this Bill if passed into law? So, it will not merely be that the rent will be divided but the *patni* also will be divided up by leaps and bounds. There is, of course, the provision that if the rent is not realised by selling the property covered by the separate account, the whole *patni* will be put up to sale will not apply, because it will be a separate *patni* altogether. That is a very important point.

Mr. PRESIDENT: Yes, there are several other sections also in connection with which the same difficulty arises.

Mr. HAMIDUL HUQ CHOWDHURY: Sir, may I say a few words on this point without going into the merits of the Bill?

Mr. PRESIDENT: You may speak on the point whether the previous sanction of the Governor is necessary or not.

Mr. Hamidul HUQ CHOWDHURY: Sir, I do not agree with the Legal Remembrancer that the sub-section (*3*) refers to rights generally.

Mr. PRESIDENT: I only ask whether the modification of the rights in land requires the previous sanction of the Governor without which, according to sub-section (*3*) of section 299, no Bill or amendment making provision for the transference to public ownership of any land can be moved.

Mr. HAMIDUL HUQ CHOWDHURY: The subsequent clause governs this. If in a Bill there is a question of modification or extinguishment of rights and transference to public ownership, then that Bill shall not be introduced without the previous sanction of the Governor. That is the point. But what is really apprehended is that the State may seize the properties of private persons without giving

any compensation, and in that case the Governor's express consent is necessary for protection of private rights against Government's high-handed action by making legislation. Therefore, Sir, section 299(3) refers to extinguishment and modification of rights and transference to public ownership of any land and not by legislation between private persons. If there is any modification of rights between private persons, then sub-section (3) will not apply.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I admire the ingenuity of my friend, the Deputy President of the House, but I think that the theory has long been exploded that the two things do not go together and that modification of rights is a separate thing. It has nothing to do with acquisition for private ownership.

Mr. PRESIDENT: I do not think that any argument is necessary. I hold that the previous sanction of His Excellency the Governor will be necessary as contemplated by the Governor's rules.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: In this connection, may I make one submission? Evidently this matter will not be taken up before the next non-official day. Only to-day I have received notices of amendments which I had no time to examine, and it may be necessary for Government to move one or two amendments to this Bill. May I have your permission to put in notices of amendments in the meantime? There is ample time between to-day and the next non-official day.

Mr. PRESIDENT: Yes, you may.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: May other members give notice of amendments, Sir?

Mr. PRESIDENT: Yes, anybody who wants can give notice of amendment.

The Presidency Small Cause Court (Amendment) Bill, 1938.

Mr. HAMIDUL HUQ CHOWDHURY: Sir, I beg to move that the Presidency Small Cause Court (Aemndment) Bill, 1938, be taken into consideration.

Mr. PRESIDENT: Motion moved: that the Presidency Small Cause Court (Amendment) Bill, 1938, be taken into consideration.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I beg to move that the Bill be re-circulated for the purpose of eliciting opinion thereon by the 1st March, 1940.

Mr. PRESIDENT: Amendment moved: that the Presidency Small Cause Court (Amendment) Bill, 1938, be re-circulated for the purpose of eliciting opinion thereon by the 1st March, 1940.

(The motion was agreed to.)

The Bengal Legislative Council Powers and Privileges Bill, 1939.

Mr. BANKIM CHANDRA DATTA: Sir, may I have your leave to move a Privileges Bill which stands in my name? The matter concerns every member of this House and I do not think that there will be any objection from any part.

Mr. PRESIDENT: Yes, you may.

Mr. BANKIM CHANDRA DATTA: Sir, I beg to move that the Bengal Legislative Council Powers and Privileges Bill, 1939, be referred to a Select Committee consisting of—

(1) The Hon'ble Khwaja Sir Nazimuddin, Minister in charge of the Home Department,

(2) Khan Sahib Abdul Hamid Chowdhury,

(3) Khan Bahadur M. Abdul Karim,

(4) Mr. Kader Baksh,

(5) Khan Bahadur Naziruddin Ahmad,

(6) Mr. E. C. Ormond,

(7) Raja Bhupendra Narayan Sinha Bahadur,

(8) Mr. Shrish Chandra Chakraverti,

(9) Dr. Radha Kumud Mookerji,

(10) Mr. Humayun Kabir, and

(11) the mover,

with instructions to submit their report by the end of March, 1940, and that the number of members whose presence shall be necessary to constitute a quorum shall be four.

Sir, I do not think that any speech is necessary to commend this motion. I have gone through the other Bill, namely, the Bengal Assembly Powers and Privileges Bill which was introduced in the other House in July, 1939, and I feel, Sir, that it is much better that we sit together to come to a decision.

Mr. PRESIDENT: Motion moved: that the Bengal Legislative Council Powers and Privileges Bill, 1939, be referred to a Select Committee consisting of—

(1) The Hon'ble Khwaja Sir Nazimuddin, Minister in charge of the Home Department,

(2) Khan Sahib Abdul Hamid Chowdhury,

(3) Khan Bahadur M. Abdul Karim.
(4) Mr. Kader Baksh,
(5) Khan Bahadur Naziruddin Ahmad,
(6) Mr. E. C. Ormond,
(7) Raja Bhupendra Narayan Sinha Bahadur,
(8) Mr. Shrish Chandra Chakraverti,
(9) Dr. Radha Kumud Mookerji,
(10) Mr. Humayun Kabir, and
(11) the mover,

with instructions to submit their report by the end of March, 1940, and that the number of members whose presence shall be necessary to constitute a quorum shall be four.

(After a pause.) The question before the House is: that the Bengal Legislative Council Powers and Privileges Bill, 1939, be referred to a Select Committee consisting of—

(1) The Hon'ble Khwaja Sir Nazimuddin, Minister in charge of the Home Department,
(2) Khan Sahib Abdul Hamid Chowdhury,
(3) Khan Bahadur M. Abdul Karim.
(4) Mr. Kader Baksh,
(5) Khan Bahadur Naziruddin Ahmad,
(6) Mr. E. C. Ormond,
(7) Raja Bhupendra Narayan Sinha Bahadur,
(8) Mr. Shrish Chandra Chakraverti,
(9) Dr. Radha Kumud Mookerji,
(10) Mr. Humayun Kabir, and
(11) the mover,

with instructions to submit their report by the end of March, 1940, and that the number of members whose presence shall be necessary to constitute a quorum shall be four.

(The motion was agreed to.)

Mr. PRESIDENT: Order, order. The Council stands adjourned till 2-15 p.m. on Monday next.

Adjournment.

The Council then adjourned till 2-15 p.m. on Monday, the 15th January, 1940.

Members absent.

The following members were absent from the meeting held on the 12th January, 1940:—

(1) Khan Bahadur Naziruddin Ahmad.
(2) Rai Bahadur Keshab Chandra Banerjee.
(3) Mr. Moazzemali Chowdhury.
(4) Mr. Humayun Reza Chowdhury.
(5) Mr. Narendra Chandra Dutta.
(6) Mr. Kamini Kumar Dutta.
(7) Khan Bahadur Alhaj Khwaja Muhammad Esmail.
(8) Mr. Mohamed Hossain.
(9) Alhaj Khan Bahadur Shaikh Muhammad Jan.
(10) Mr. Naresh Nath Mookerjee.
(11) Mr. E. C. Ormond.
(12) Mr. J. B. Ross.
(13) Rai Bahadur Radhica Bhusan Roy.
(14) Mr. Sachindra Narayan Sanyal.

B. G. Press—1939-40—12360A—750.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Monday, the 15th January, 1940, at 2-15 p.m., being the twenty-fifth day of the Third Session, pursuant to section 62(2) (*a*) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Disturbances on the Id day in the villages of Feni.

140. Mr. KAMINI KUMAR DUTTA: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state if Mr. Mijanur Rahman is functioning as the Subdivisional Magistrate of Feni from before January of 1939?

(*b*) Was the *Id* festival observed on the 1st February, 1939?

(*c*) Is it not a fact that in January, 1939, false rumours were spread and widely circulated within Feni police-station, particularly in the villages of Faradnagar and Fazilpur unions, to the effect that Hindu up-country *goondas* had been brought to prevent the sacrifice of cows during the *Id* festival and that the Muhammadans would not be allowed by the Hindus to sacrifice any cow on that occasion?

(*d*) Did these rumours reach the Subdivisional Magistrate and the local police?

(*e*) Is it not a fact that a public meeting was held at Feni on the 17th January, 1939, at which Mr. Harendra Kumar Sur, M.L.A., did openly speak about these rumours and of the disastrous consequences likely to follow from these rumours and drew the attention of the Subdivisional Magistrate and the local police to the seriousness of the situation created by these rumours and also demanded the adoption of preventive measures? Is it not a fact that (*i*) the officer in charge of the Feni police-station was present at that meeting, and that (*ii*) the police did take notes of the speech of Harendra Babu? Did the police take any notice of this open declaration about these rumours in the meeting and did the police report the matter to the Subdivisional Magistrate? If so, when did they report? Was there any report in writing or any record in writing about these rumours?

(*f*) Did the police of Feni thana and the Subdivisional Magistrate of Feni get any report or information about these rumours in January? If so, in what part of January?

(*g*) What is the percentage of Hindu and Muhammadan populations in that locality, namely, Faradnagar and Fazilpur unions, in Feni thana and in the neighbouring places? Are not the Hindus there in a very small minority, not exceeding five per cent. of the total population?

(*h*) Is it not a fact that the local authorities including the Subdivisional Magistrate and the local police did ignore these rumours and did not take any preventive measures against any unteward communal outbreak?

(*i*) Is it not a fact that these rumours were being circulated by designing people with intent to inflame the Muslim mass-mind and to rouse religious frenzy? Did not the local authorities fail to realise the serious consequences of communal feeling being worked up in a majority community in a place like Feni subdivision?

(*j*) Did the local authorities take any step to disabuse the mind of the Muslim mass of all apprehension regarding the allegations circulated in the rumours? Was any step taken for the protection of the minority community (Hindus) against any outbreak of lawlessness in the locality?

(*k*) Is it not a fact that on the 1st February, 1939, the *Id* day, some Hindu houses in Rajnagar village, seven miles from Feni, were raided in broad daylight at about 2 p.m. by several hundreds of Muslims who molested the people living in those houses, entered their huts, caused various damages and desecrated places of worship on the pretext of searching for Hindu up-country *goondas*? Did the police on arrival at the spot that day find marks of violence and of the raids committed in the Hindu houses? Were as many as four informations lodged with the police on the spot on the 1st February 1939, by (*i*) Becharam De, (*ii*) Nagendra Kumar Sil, (*iii*) Kailash Chandra Das, and (*iv*) Jagat Chandra Das Mahajan, complaining of these raids by the Muslim mass?

(*l*) Is the Government aware that on the 1st February, 1939, at about 2-14 p.m. when the up-train from Chittagong was proceeding by the rail-road between Fazilpur and Moharigunj station, a big Muslim crowd assembled on the said road variously armed and wanted to attack the passengers in the train? Did the guard of the train submit a written report of the incident on arriving at Laksam station? Did the police inquire into the matter and was any action taken in respect of this incident?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): (*a*), (*b*), (*d*) and (*j*) Yes.

(*c*) There was a false rumour that up-country Hindus were kept concealed to prevent cow sacrifice, but the rumour did not refer to the villages mentioned in the question.

(*e*) There was a small meeting in the Congress office and Mr. Harendra Kumar Sur is reported to have referred to such rumours, but no copy of resolution or representation was forwarded to the Subdivisional Officer or any other official. (*i*) Yes for a short time. (*ii*) He took some notes and made an enquiry but found nothing in the rumours. He reported to the Superintendent of Police immediately.

(*f*) Yes on 26th and 27th January but in respect of another thana, Chhagalnaya.

(*g*) The Hindus are a small minority about 10 to 16 per cent.

(*h*) No.

(*i*) The origin of the rumours cannot be ascertained.

The local authorities fully realised the situation and meetings were organised in the affected areas by the Subdivisional Officer, who exhorted people not to believe rumours and not to break the peace.

(*k*) Yes. The hon'ble member is referred to the answer to the Council question No. 147 of 2nd May, 1939.

(*l*) It was subsequently learnt that some Muhammadans went to the station on hearing a rumour that up-country *goondas* were coming to stop *Korbani*. They went away on finding the rumour to be false. No report was received nor enquiry made.

Mr. KAMINI KUMAR DUTTA: Arising ..... (*f*), reply to question will the Hon'ble Minister be pleased to state whether it is a fact that the officer in charge of Feni thana has admitted in a judicial proceeding that he received such reports in respect of his own thana also?

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I ask for notice, as to what admission has been made by the officer. But evidently when I replied to this question, I was also taking into consideration the fact about the Subdivisional Magistrate. Naturally, as the officer in charge of the thana was present at the time when Mr. Harendra Kumar Sur made his speech in the Congress office, it is possible that he also heard about this particular thana as well.

Mr. KAMINI KUMAR DUTTA: With reference to answer (*i*), where it has been stated "The local authorities fully realised the situation and meetings were held in the affected areas by the Subdivisional Officer", will the Hon'ble Minister be pleased to state whether any meeting was held in the areas in which there were raids of the houses?

The Hon'ble Khwaja Sir NAZIMUDDIN: I ask for notice as far as that is concerned.

Mr. KAMINI KUMAR DUTTA: In addition to holding meetings in whatever areas they might have been held, did the Subdivisional Officer and the police take any steps or did they issue any sort of notice to the public intimating them that the rumours were false?

The Hon'ble Khwaja Sir NAZIMUDDIN: I have got nothing to add to what I have already stated in reply to the question. Everything that was possible to be done, to tell the public not to be alarmed at the rumours and that they were false, was done.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister be pleased to state what is it the Hon'ble Minister wishes to convey by saying that everything possible was done? My question was very specific, namely, whether in addition to holding meetings any public notification or any other specific act was done to allay the feeling and to convince the public that really these rumours were false. The second part of my question is this—when were the meetings held?

The Hon'ble Khwaja Sir NAZIMUDDIN: Meetings were held immediately after, on the 26th and 27th January, and before the incidents took place. I would like to mention in this connection that the most effective way of dispelling rumours is to hold public meetings and to tell the public not to be alarmed. It is impossible to counteract the effect of false rumours spread insidiously by persons interested in creating trouble, and it is also impossible to anticipate these. But what I would like to emphasise is that action was taken by the local authorities to counteract these false rumours.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister be pleased to state whether it is not a fact that the President of that very Union in which so many houses were raided, happens to be a lawyer of the Feni Court and that he was apprised of these false rumours and whether in spite of that any action was taken in that particular area?

The Hon'ble Khwaja Sir NAZIMUDDIN: I again assert that meetings were held in Feni thana. There are no two opinions on that. Certainly meetings were held in Feni thana.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister be pleased to state whether there is any record to show that meetings were held prior to the incidents?

The Hon'ble Khwaja Sir NAZIMUDDIN: Certainly.

Dr. RADHA KUMUD MOOKERJI: Arising out of answer (*e*), the question was whether a public meeting was held. But the answer I cannot follow.

The Hon'ble Khwaja Sir NAZIMUDDIN: I have already stated what kind of meeting was held. It is for the members themselves to decide whether the meeting held in the Congress office can be called a public meeting.

Dr. RADHA KUMUD MOOKERJI: My next question is—should the Government have waited for resolutions to be submitted to them before they could take action? Is that how the Government should go about this business of maintaining Law and Order?

The Hon'ble Khwaja Sir NAZIMUDDIN: Is it expected that on everything that is stated in a public meeting Government should take action? It is equally absurd.

Dr. RADHA KUMUD MOOKERJI: My question is if a serious trouble is apprehended—and that apprehension is expressed in a public meeting—should Government wait for regular resolutions or representation to be forwarded to them before they can take action? Should they not act on their own initiative in the matter?

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, unless the hon'ble member is deliberately misinterpreting the answer that has been given, it is clear that action was taken. Even the Sub-Inspector made enquiries and found that there was no basis for these rumours and meetings were held to allay the apprehension of the public. What more does the hon'ble member want the Government officers to do?

Raid of Hindu houses in the Rajnagar village in Feni by Muslims.

141. Mr. KAMINI KUMAR DUTTA: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state if it is a fact that on the 1st February, 1939, some Hindu houses in Rajnagar village under the Feni police-station were raided? Is it a fact that the police on enquiry found the cases of raids to be true? If so, why did they not trace any of the culprits though the incidents happened in broad daylight and apparently by people living in the vicinity? Did not the police submit final report in all the cases, finding the cases to be true?

(*b*) Did it strike the Subdivisional Magistrate of Feni and the local police as to why the identity of the culprits was not being disclosed even by the victims? Is the Hon'ble Minister aware of the public opinion that the minority community (Hindus) was terrorised by the

Muslims and that the conduct of the local authorities did not inspire confidence in the mind of the oppressed people that they would get any relief or protection at the hands of the local Magistrate and of the police?

(*c*) Is it not a fact that on the 2nd February, 1939, one Jagat Chandra Das Mahajan did charge Maulvi Serajul Islam, a pleader of Feni, but a resident of Fazilpur, the neighbouring village, and the President of that Union before the District Magistrate who happened to be in Rajnagar on that date, that the said Maulvi Serajul Islam was dissuading the people from disclosing the names of the perpetrators of the raid and also terrorising the witnesses? Is it not a fact that Maulvi Serajul Islam lodged a complaint for defamation for this charge being laid against him on the 6th February, 1939, and did he not subsequently withdraw that complaint though Jagat Chandra Das Mahajan did not give his consent to withdrawal and refused to compromise the case and by written petition expressed his dissent to the withdrawal?

(*d*) Did Jagat Chandra Das Mahajan and other aggrieved persons approach the District Magistrate at Noakhali on the 4th February, 1939, and the 5th February, 1939, and did they bring to his notice the fact that the attitude of the local authorities did discourage the people of the locality from giving out the names of the culprits of the raids and that the police was not properly investigating the case and was rather inclined to suppress the evidence?

(*e*) Is the Hon'ble Minister aware of the public opinion that this outbreak of lawlessness did disclose the inefficiency and want of foresight on the part of the then Subdivisional Magistrate, Feni, and that for this he was anxious to belittle the incidents of raid and to avoid a disclosure of the facts in open Court and so the investigation of the cases was influenced by that complex? What was the reason for the withholding of all useful information leading to the detection of the culprits?

(*f*) Has the Government considered the seriousness of such acts of open mass defiance of law and the serious consequences that may ensue therefrom, particularly where the perpetrators of such acts escape with impunity?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) Four Hindu houses were raided; the cases were found true under sections 143/447/326, Indian Penal Code but the complainants could not name the trespassers and so final reports were submitted.

(*b*) Yes. I am not aware that there was any such genuine feeling.

(*c*) Yes, the case was settled amicably.

(*d*) They did approach the District Magistrate.

(*e*) My information is entirely otherwise.

(*f*) There was no such open mass defiance of law.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister be pleased to state whether it would not jar on the common sense of anybody that in respect of incidents committed in broad daylight not a single raider could be traced?

The Hon'ble Khwaja Sir NAZIMUDDIN: It is obvious that when people came from another part of the village not known to the people of the village to which they came, it would be very difficult to find out who were the people that took part in the raid. Besides that, the matter was not taken seriously there and they were not prepared to go on with it.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister be pleased to explain how he has come to the conclusion that the matter was not taken seriously there? Does he mean to say that it was not taken seriously by the authorities?

The Hon'ble Khwaja Sir NAZIMUDDIN: Seriously by the people whose houses were raided; by them and not by the authorities. The authorities tried their best to do everything possible in the matter.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister be pleased to state whether he will be inclined to believe if any information has been given to him like this that people whose houses were raided and whose temples were desecrated did not take the matter seriously at all?

The Hon'ble Khwaja Sir NAZIMUDDIN: First of all, I doubt very much if temples were desecrated. There is not sufficient evidence to that effect, and, as I said, the actual damage was practically nil. The incident was forgotten immediately after it had taken place, and it was kept alive only by the agitation of the Papers in Calcutta.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister be pleased to state whether he thinks that the raid on the houses and the violation of the sanctity of the houses of the people is very trifling?

The Hon'ble Khwaja Sir NAZIMUDDIN: I do not say that it is trifling. The people of the locality had realised that it had been done under a misapprehension and therefore there was no grievance about it.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state whether Maulvi Serajul Islam is or not a member of the Muslim League?

The Hon'ble Khwaja Sir NAZIMUDDIN: I want notice of that. I have got no information.

Dr. RADHA KUMUD MOOKERJI: Arising out of answer (*a*), may I know the geographical location of Feni? Is it in the district of Noakhali?

The Hon'ble Khwaja Sir NAZIMUDDIN: Surely. I think the hon'ble member knows it better than myself.

Dr. RADHA KUMUD MOOKERJI: Will the Hon'ble Minister admit that Noakhali was in a disturbed state then?

The Hon'ble Khwaja Sir NAZIMUDDIN: Certainly not.

Mr. KAMINI KUMAR DUTTA: Arising out of answer (*d*), it is admitted that the aggrieved persons did approach the District Magistrate. My question was further whether these people did bring the matter to the notice of the District Magistrate that the attitude of the local authorities was such that they could place no confidence in the authorities and that the local authorities were really intent on wholly frustrating the investigation?

The Hon'ble Khwaja Sir NAZIMUDDIN: On the other hand, Sir, there is a criminal case going on in connection with this, and I do not know what has been the result of the appeal before the District and Sessions Judge. Before the Subdivisional Magistrate some people were convicted for giving deliberately false information in this connection in this case.

Mr. KAMINI KUMAR DUTTA: May I request the Hon'ble Minister to take it from me that there has been no case for giving false information and there has been no case pending. Will he be pleased to give a reply to that part of the question whether the people did bring to the notice of the District Magistrate that they had no faith or confidence in the local authorities and that their attitude was to frustrate the investigation?

The Hon'ble Khwaja Sir NAZIMUDDIN: I am equally certain that there was a case in connection with this in which some people were convicted and that some of these people were connected with Mr. Harendra Kumar Sur as well. That is the reason why this agitation has been still kept alive. They were convicted on the ground that they lodged false information or something of that kind.

Mr. KAMINI KUMAR DUTTA: When the Hon'ble Minister makes a statement in the House, I am bound to accept it. But in this case, Sir, we know definitely that the information is not correct.

Mr. PRESIDENT: You have got to accept the statement, there is no help for it.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state whether Maulvi Serajul Islam was or was not dissuading the people from disclosing the name of the perpetrators and also terrorising the witnesses?

The Hon'ble Khwaja Sir NAZIMUDDIN: May I read from the reply to a similar question that was put previously? "About a week later four or five residents of that village complained alleging similar raids on houses and one of them has now been prosecuted for attempted bribery——

Mr. KAMINI KUMAR DUTTA: And not for false information?

The Hon'ble Khwaja Sir NAZIMUDDIN: Yes, attempted bribery of a police officer for recording false information in that connection; and the men have been convicted on that charge.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister be pleased to state, as it is now quite apparent that there was no case for lodging any false information, whether as a matter of fact, the aggrieved people did bring to the notice of the District Magistrate that the attitude of the local authorities was one of really muzzling the investigation?

The Hon'ble Khwaja Sir NAZIMUDDIN: I emphatically deny this, and there is no justification for holding this view. I may also inform the House that in that bribery case which is now on appeal Mr. Harendra Kumar Sur who gave evidence for the defence has been severely criticised in the judgment.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister please state whether he thinks it proper in respect of a pending case to say anything about the finding?

The Hon'ble Khwaja Sir NAZIMUDDIN: The case has been decided already.

Mr. KAMINI KUMAR DUTTA: No, Sir, it is pending on appeal. Does he think it proper to say anything about a pending case, for the findings may be cast to the winds?

The Hon'ble Khwaja Sir NAZIMUDDIN: I am merely stating a fact. I am not expressing any opinion on it.

Mr. LALIT CHANDRA DAS: With reference to answer (*c*), will the Hon'ble Minister be pleased to state whether I may take it from his silence that Maulvi Serajul Islam was dissuading the people from disclosing the names of the perpetrators of the raid and was terrorising the witnesses?

The Hon'ble Khwaja Sir NAZIMUDDIN: This is absolutely incorrect.

Mr. LALIT CHANDRA DAS: Why was it then that that answer was not given in print? The Hon'ble Minister's answer to question (*c*) is: "Yes, the case was settled amicably."

The Hon'ble Khwaja Sir NAZIMUDDIN: The question has been a ten-line question, and I do not——

Mr. PRESIDENT: Yes: I see the difficulty.

Mr. KAMINI KUMAR DUTTA: In respect of answer (*f*) which says that there was no open mass defiance of law, will the Hon'ble Minister be pleased to state whether there was an attempt at raiding a running train and whether it is not a mass defiance of law?

The Hon'ble Khwaja Sir NAZIMUDDIN: Defiance of law would arise when the authorities tell people not to do a thing and still they persist in doing it. That is defiance of law.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister please state whether it is required by the authorities to proclaim on each occasion that a train is not to be raided?

The Hon'ble Khwaja Sir NAZIMUDDIN: That is an illegal act.

Mr. KAMINI KUMAR DUTTA: If a running train is attempted to be raided, will the Hon'ble Minister please state whether it is or it is not an open defiance of law?

The Hon'ble Khwaja Sir NAZIMUDDIN: That is a matter of interpretation, Sir.

Mr. LALIT CHANDRA DAS: Is the Hon'ble Home Minister aware that this raid on a train was carried on by a mob of five to six thousand Moslems?

The Hon'ble Khwaja Sir NAZIMUDDIN: There is absolutely no justification for putting the number at that figure, namely, five or six thousand. It is unfair to make a statement of that kind. The honourable member has no justification to say that the number was five to six thousand. It was nothing of that kind——

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister then give the correct number? There is nothing about it——

Mr. PRESIDENT: Mr. Das ought to know that he cannot put cross-questions before the Hon'ble Minister has finished. It is no use trying to cross-examine him.

The Hon'ble Khwaja Sir NAZIMUDDIN: There is no justification for giving that number, and what is more, there was no complaint of any kind about this incident made to any authority whatsoever.

Mr. PRESIDENT: Mr. Das, if you want to put any supplementary question you can put it now.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to state why no step was taken against Maulvi Serajul Islam for his activity in that connection?

The Hon'ble Khwaja Sir NAZIMUDDIN: There was nothing wrong in anything that he did there.

Dr. RADHA KUMUD MOOKERJI: With reference to answer (*f*), may I know the number of people involved in this attack on the train?

The Hon'ble Khwaja Sir NAZIMUDDIN: I cannot give the information, because as I have already stated, no complaints were lodged and no facts were ascertained. So, how can I give the figure?

Mr. LALIT CHANDRA DAS: In that case, will the Hon'ble Minister be pleased to state in what way he can contradict me if I say that the number was five to six thousand, for he is not in a position to deny that statement?

The Hon'ble Khwaja Sir NAZIMUDDIN: It is commonsense that if a mob of five to six thousand assembled there, then it must have been brought to the notice of the local authorities.

Mr. LALIT CHANDRA DAS: It is extraordinary sense and not common sense.

Dr. RADHA KUMUD MOOKERJI: Is the raid on a train admitted as a fact?

The Hon'ble Khwaja Sir NAZIMUDDIN: I can admit nothing, because nothing was officially brought to our notice. No investigation was held.

Dr. RADHA KUMUD MOOKERJI: If the local people knew of an attempt at raiding a train, then should we not think that it was a sort of mass attack?

The Hon'ble Khwaja Sir NAZIMUDDIN: How could the local people know that there was going to be a raid on a train?

Dr. RADHA KUMUD MOOKERJI: May I know whether the local police were so oblivious of their duty that they did not think an attempt at raiding a train to be serious enough to be taken into their cognizance?

Mr. PRESIDENT: Order, order. Next question.

Government investigations into the cases of raid in Rajnagar, Feni.

142. Mr. KAMINI KUMAR DUTTA: (*a*) Will the Hon'ble Minister in-charge of the Home Department be pleased to state if it is a fact that at a public meeting held at Feni on the 3rd February, 1939, open charges of inefficiency and of perfect apathy of the Subdivisional Magistrate of Feni and of the local police in respect of the investigations of the case arising out of raids on some Hindu houses and of providing protective measures for the Hindus in the village of Rajnagar under the Feni thana on the 1st February, 1939, were laid against them and that it was after this meeting that some constables were posted in the village?

(*b*) Is it not a fact that the Subdivisional Magistrate sent for Babu Harendra Kumar Sur, M.L.A., after the meeting of the 3rd February, 1939, and asked him not to send the reports of these incidents and of the complaints ventilated in the meeting to the press, to which Harendra Babu could not agree?

(*c*) Is it not a fact that the Subdivisional Magistrate launched a campaign of propaganda after the raids on the 1st February, 1939, to avoid the real issue of his inefficiency and of his inactivity both prior and subsequent to the raids and of his failure to protect the minority community? Is it not a fact that he issued leaflets on the 4th February, 1939, the 8th February, 1939, and the 20th February, 1939, in his own

name which were vaguely worded though apparently referring to the incidents to the 1st February, 1939 (*Id* day) with the object of side-tracking the question of his failure to discharge his duty?

(*d*) Is it not a fact that in none of the leaflets issued by Subdivisional Officer, did he condemn the act of hooliganism of the raiders and did not give any assurance of safety to the minority community? Did he not, on the other hand, in his leaflet, dated the 20th February, 1939, try to deny the incidents of the raids of the 1st February, 1939, and openly proclaimed that any report about his transfer from Feni was false and that he was bodily present in Feni and would remain there for a long time and pursue his course of action? Does the transfer of an officer from a station depend on his option? Did the Government give any assurance to Mr. Mijanur Rahman that he would be retained there for a long time? If not, can he issue such proclamation? Is any Government officer allowed to issue such declaration?

(*e*) Will the Hon'ble Minister be pleased to state whether any leaflets described as "বিবৃতি না বিকৃতি" (a statement or distoration) was published at Feni under the signature of the Secretary, *Id Mahafil* Committee on the 22nd February, 1939? Was not Mr. Mijanur Rahman the President of that Committee? Was the leaflet published with his sanction and to his knowledge? If not, did he take any step to dissociate himself from it or does he approve of the statements made in the leaflet? Does not that leaflet contain many statements to which a public servant under the Crown can never be a party?

(*f*) Will the Hon'ble Minister be pleased to state whether any public meeting was held at Noakhali on the 3rd February, 1939, at which again the charges of inactivity and of failure to give protection to the minority community was openly laid against the local authorities at Feni? Was any notice taken of this meeting and any remedial action adopted thereafter?

(*g*) Will the Hon'ble Minister be pleased to state whether Nagendra Kumar Sil, one of those whose house was raided on the 1st February, 1939, sent a letter to the police and the Subdivisional Magistrate, dated the 17th February, 1939, or bearing some date in February, 1939, complaining of intimidation by Muslims of various acts of oppression including molestation of their womenfolk, if they would complain to the authorities against any act of hooliganism on their part? Will the Hon'ble Minister be pleased to state whether any step to remedy this state of things was taken excepting a formal inquiry?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) A meeting at Jagannath Bari was organised by Mr. Harendra Kumar Sur. The constables were sent to the localities before this.

(*b*) Mr. Harendra Sur came to see the Subdivisional Officer, and the Subdivisional Officer asked him not to cause agitation through the press.

(*c*) No. He issued some pamphlets to counteract the effect of the false rumours.

(*d*) This was naturally not considered desirable. He mentioned that the rumour of his transfer was not true in order to allay public commotion.

(*e*) Such a pamphlet was issued by the *Id Mahafil* Committee but not with sanction of the Subdivisional Officer, nor did it appear necessary for him to dissociate himself from it.

(*f*) There was a meeting on the 13th which was duly reported in the Press, but no further action was called for.

(*g*) No. Inquiry appeared the proper step.

Mr. KAMINI KUMAR DUTTA: With reference to answer (*d*), will the Hon'ble Minister be pleased to state whether the Subdivisional Magistrate issued leaflets to the effect that he was not going to leave the subdivision and would remain there for a long time and whether this particular Subdivisional Magistrate had any assurance from Government that he would not be transferred?

The Hon'ble Khwaja Sir NAZIMUDDIN: No.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister be pleased to state whether any officer has got any right to say whether and when he will be transferred and how long he will remain at a particular station?

The Hon'ble Khwaja Sir NAZIMUDDIN: Every officer has the assurance and confidence that Government will not transfer him without any proper cause and justification. As this Subdivisional Magistrate was only doing what was right, he felt and had this much of confidence in Government that he would not be transferred because of the agitation started against him.

Mr. KAMINI KUMAR DUTTA: May I know whether officers are transferred only when there are sufficient causes justifying a transfer?

The Hon'ble Khwaja Sir NAZIMUDDIN: Certainly. Without any cause no officer is transferred.

Mr. KAMINI KUMAR DUTTA: Is it possible that some officers may be permanently retained at a particular station?

The Hon'ble Khwaja Sir NAZIMUDDIN: No. When the normal term is over, that is also one of the causes of transfer.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister be pleased to state in that case what reason the Subdivisional Magistrate had in issuing leaflets and assuring the public as if he was the Government to the effect, "I am not going to be transferred?"

The Hon'ble Khwaja Sir NAZIMUDDIN: I do not accept that interpretation of the action of the Subdivisional Magistrate.

Mr. LALIT CHANDRA DAS: Was it proper for the Subdivisional Magistrate to issue leaflets like this?

The Hon'ble Khwaja Sir NAZIMUDDIN: Certainly.

Mr. LALIT CHANDRA DAS: And under the authority of Government?

The Hon'ble Khwaja Sir NAZIMUDDIN: No, there was no authority of Government behind it.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister please state what is the name of that Subdivisional Magistrate?

The Hon'ble Khwaja Sir NAZIMUDDIN: Mr. Mizanur Rahman.

Dr. RADHA KUMUD MOOKERJI: May I now know from the Hon'ble Minister what light is thrown by questions Nos. 140 to 143 on the condition of the district of Noakhali?

Mr. PRESIDENT: Order, order. Next question.

Indifference of Government in affording protection to the minority community.

143. Mr. KAMINI KUMAR DUTTA: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state if the attention of the Government had been drawn to a statement of Babu Harendra Kumar Sur, M.L.A., published in the daily papers of the 27th February, 1939, regarding the state of insecurity prevailing at Feni so far as Hindus were concerned? Was any action taken thereon, and, if so, what action?

(*b*) Did the Commissioner of Chittagong Division visit Feni on the 28th February, 1939, and did the aggrieved parties of Rajnagar village in Feni thana whose houses had been raided, apply to him there complaining of the indifference of the local authorities in affording protection to the minority community? Did not the Commissioner intimate them in writing that he had asked the Subdivisional Magistrate to adopt proper measures? Did the Subdivisional Magistrate take any action to mitigate the situation?

(*c*) Is it not a fact that the inefficiency of the local officers at Feni had generated a deep-rooted feeling of insecurity and helplessness in the minority community there and has indirectly encouraged open defiance of law.

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) Yes. Report was called for from the District Magistrate and I made a statement in Council on that date.

(*b*) On a visit to Feni in connection with sports when Nagendra Sil approached Commissioner with a petition.

(*c*) No.

Mr. KAMINI KUMAR DUTTA: Is it a fact that these aggrieved people approached the Divisional Commissioner at Feni with a petition complaining against the local authorities and about their indifferent attitude?

The Hon'ble Khwaja Sir NAZIMUDDIN: That may be so.

Mr. KAMINI KUMAR DUTTA: Was any step taken thereafter to allay that feeling of apprehension?

The Hon'ble Khwaja Sir NAZIMUDDIN: Well, I think the attitude of Government was that the whole thing was engineered and there was no genuine apprehension in the minds of the people there. It was only a few persons who were engineering the agitation and who were making out a case that there was an apprehension.

Mr. KAMINI KUMAR DUTTA: Will the Hon'ble Minister be pleased to state that the Government view and the view of the local authorities was that no step need be taken?

The Hon'ble Khwaja Sir NAZIMUDDIN: Certainly, because there was no reason for it and not a hair of anyone's head had been touched, since then or ever since.

Reduction of rent.

144. Mr. NUR AHMED: (*a*) Will the Hon'ble Minister in charge of the Revenue Department be pleased to state if it is a fact that as the law stands now the Settlement Department have got no power to reduce rent even in deserving cases, that they have to increase rent under section 30 of the Bengal Tenancy Act and that during the recent Revisional Survey in Chittagong, increases in rent were made even though depression set in, and that the rates of rent as settled in Chittagong at the time of the Revisional Survey have produced hardship to land-owners and *raiyats* and as a result a larger percentage of revenue and rent is in arrear?

(*b*) If so, has the Government taken, and intends to take, any measures to reduce rates of rent and revenue in Chittagong? If so, what are they? If not, why not?

(*c*) Is it a fact that the rent was enhanced on the basis of bumper crops?

(*d*) Is it a fact that since the depression has set in in Chittagong, *raiyats* and tenure-holders are unable to bear this excessive burden in the shape of enhanced rents?

(*e*) Is it a fact that the Government had to employ a Special Officer to recommend reduction of rent to the extent of one lakh and that even after this reduction, rents are still high and excessive?

(*f*) What further steps is Government about to take in order to further reduce the rent in Chittagong in deserving cases? If not, why not?

MINISTER in charge of the REVENUE DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*)(*i*) The Settlement Department have, while settling land revenue, power to reduce rent under sections 38, 104A and 191 of the Bengal Tenancy Act. In special cases, the Provincial Government can vest a Revenue Officer with power to reduce rent under section 112 of the Act.

(*ii*) In view of section 75A of the Bengal Tenancy Act, the Settlement Department is not now required to increase rent following the principles of section 30 *ibid.*

(*iii*) In some cases rents settled during the Revisional Settlement in Chittagong were found to be high. Special *jamabandi* work was undertaken for the revision of rents in these cases and adequate relief was given to the tenants by abatement and remission. There is no indication that a larger percentage of revenue and rent is in arrear.

(*b*) and (*f*) Do not arise.

(*c*) and (*d*) No.

(*e*) Yes, a Special Officer was appointed to reduce rents. The reduced rents are no longer considered excessive.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is the Hon'ble Minister aware that sections 38, 104A and 191 do not deal with abnormally high contractual rents at all?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, Sir. Still, when the rents are high and when settlement of land revenue is going on, Settlement Officers have the inherent power to settle fair rent.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Even without recourse to section 112, can they reduce rent?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, Sir. Settlement of fair rent that they can always settle.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Can reduction of rent be done without recourse to section 112 in course of settlement of land revenue?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Section 112 gives special power to Revenue Officers to settle fair rent or reduce rent under special circumstances in a particular locality, but sections 38, 104A and 191 give general power to Revenue Officers to settle fair rent when settlement of land revenue is going on in a particular district, a particular subdivision or a particular area. The honourable member was a Revenue Officer himself and he knows these things better as he did exercise these powers under these sections.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is it a fact that it was decided that contractual rents would not be reduced and that is why high contractual rents were always maintained?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: That is not my information. The law is very very clear on the point.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: With reference to (*ii*) of answer (*a*), is the Hon'ble Minister aware that in spite of section 75A, enhancements of rent are being made by re-classification of land?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Re-classification is an entirely different thing. It does not really amount to enhancement of rent; that is not barred by section 75A.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Will the Hon'ble Minister be pleased to state how classification of land can be changed?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I do not know exactly under what circumstances and where rents are being enhanced. But if the hon'ble member will kindly give me particular instances, I shall be pleased to look into the matter. It is very difficult for me to answer hypothetical questions of this nature or to interpret section 175A on the floor of this House. It is not the duty of Government to interpret any section.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: I wanted to know what was the effect of 175A.

Mr. PRESIDENT: Order, order. The Hon'ble Minister is not bound to answer any hypothetical question at all. You should not ask any hypothetical question or ask for any opinion.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSSAIN: I did not ask for any opinion, Sir.

Mr. PRESIDENT: Will you please put your question again?

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: I wanted to know whether section 175A was being got over by adopting the devise of re-classification and rents were being enhanced on that basis.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: That is the allegation which the hon'ble member is making but I do not admit that: If he will give me particular instances, I shall look into them and then I may give my opinion on the matter. Otherwise, it is a hypothetical question.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is it a fact that without special sanction of the Government no reduction of rent can be made?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: That is true. Government under section 112 have to vest a Revenue Officer with special powers.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is it not a fact that a poor tenant cannot take advantage of section 38 for reduction of rent by going to court?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It sometimes so happens.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: How will the poor tenants get relief on account of a fall in price unless section 112 is used by Government on its own initiative?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Section 112 is always used by Government on their own initiative and whenever necessary Government have used section 112 as the hon'ble member himself knows very well as he was vested as Revenue Officer with powers under section 112 and as at present operations under section 112 are going on in Mymensingh which is his own district.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is it a fact that that section is also being applied to Chittagong?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Section 112, speaking from memory, was used there between 1934 and 1935 for reduction of rent, because it was considered excessive in particular areas. But after the rent had been reduced, Government did not consider that there was any justification for a further reduction on the ground of a fall in price. As a matter of fact, there is no fall in price now. Prices are now rising.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Is the Hon'ble Minister aware that the reductions in rent in Chittagong were made because of the abnormally high rent of the under-*raiyat* which was fixed on the basis of the boom price of paddy and that reductions have since been allowed in the case of *talukdars*? That was not on the basis of a general fall in price.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Reduction in the rent level was considered necessary because of the economic depression. Rents were fixed during the Settlement Operations and the rent level was causing some hardship because suddenly the price of produce came down.

144A. Mr. HUMAYUN KABIR: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(*a*) if rules have been framed for the ensuing elections to the Bengal Legislative Council from territorial constituencies;

(*b*) whether there has been any deviation from the rules which were followed at the time of the last elections to the Council from such constituencies; if so, what are these deviations;

(c) whether his attention has been drawn to the report in certain Calcutta newspapers that the Government intend to change the rules and substitute postal ballot in place of the system, which has prevailed till now; if so, whether there is any truth in the said report; and

(d) if he is aware of the fact that the introduction of postal ballot will interfere with the secrecy and the free exercise of votes?

The Hon'ble Khwaja Sir NAZIMUDDIN: No rules in modification of those in force at the last election have been published and the forthcoming election will be held in accordance with the existing rules.

Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister be pleased to consider the desirability of increasing the number of polling booths?

The Hon'ble Khwaja Sir NAZIMUDDIN: I will look into the question.

Khan Sahib ABDUL HAMID CHOWDHURY: Will the Hon'ble Minister be pleased to state if we can take it that the elections will be held in the same manner as in the last time without introducing the ballot system through post-office?

The Hon'ble Khwaja Sir NAZIMUDDIN: The hon'ble member is correct.

The Bengal Agricultural Debtors (Amendment) Bill, 1939.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I beg leave to give notice that I shall move that the Bengal Agricultural Debtors (Amendment) Bill, 1939, as settled in the Council, be passed after the motion for its consideration has been passed.

Mr. LALIT CHANDRA DAS: On a point of information, Sir. One of my questions relating to the Hon'ble Minister's visit to Comilla which was due to be answered about a month ago, has not yet been replied.

Mr. PRESIDENT: The hon'ble member is requested to see the Secretary in this connection.

The Bengal Money-lenders Bill, 1939.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, may I move that the Bengal Money-lenders Bill be taken into consideration now instead of the other two Bills?

Mr. PRESIDENT: I hope the House will have no objection to this proposal.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: On a point of order, Sir. The Order Paper does not seem to be in order. The Consolidated list of amendments to the clauses of the Bengal Agricultural Debtors (Amendment) Bill, 1939, has just been sent to us.

Mr. PRESIDENT: Order, order. It has now been decided that the other Bills will not be taken up to-day. If you have any point of order to raise, raise it at the time when they will be taken into consideration.

Mr. HUMAYUN KABIR: You have already mentioned that the Bengal Money-lenders Bill will now be taken up. We have nothing further to say on that. But I would only submit to you that if changes in the procedure are made so rapidly and without previous notice, sometimes it is a little inconvenient for members. We were under the impression that the other two Bills would be taken up and we came prepared accordingly.

Mr. PRESIDENT: I fully appreciate the objection. That is why I consulted the House whether the Bengal Money-lenders Bill could be taken up and I take it that the hon'ble members were agreeable.

Mr. HUMAYUN KABIR: To-day we agree. We only want to draw your attention that this should not happen time after time.

Mr. PRESIDENT: Yes, it will be taken due note of.

Mr. AMULYADHONE ROY: How can we go on with the Bengal Money-lenders Bill? We have not got the list of amendments.

Mr. PRESIDENT: It is the duty of every member to bring the list of amendments so long as the Bill is included in the Order Paper.

The House will now take up further consideration of the Bengal Money-lenders Bill, 1939. Before we take up further discussion on the amendments, the Chair will give the ruling on the point of order raised by Rai Sahib Indu Bhusan Sarkar.

President's Ruling.

A point of order has been raised by Mr. Indu Bhusan Sarker questioning the competency of this House to entertain sub-clause 13(*d*)(*i*) of clause 2 of the Bengal Money-lenders Bill, 1939. So far as the Chair has been able to gather, the honourable member's objection seems

to be based on the ground that this sub-clause seeks to deal with the conduct of banking business by corporations, which is an item in the exclusive Federal List, and as such it is *ultra vires* of the Provincial Legislature.

Prior to dealing with the various points of view placed before me in the course of the discussion which has taken place in this House on the issues arising out of the point of order, I may say that there are some who seem to think that the Chair should not give any decision on a point of order like this, involving as it does an interpretation of the Constitution which might better be left over to be finally decided by a Court of competent jurisdiction. I do not agree with this point of view. On the other hand, I am of opinion, that it is the duty of the Chair to give its decision on every question that is raised in the House on a point of order, whether it relates to the interpretation of an intricate provision of the Statute or to a question of procedure relating to the debates in the Chamber. If the President does not intervene in matters which strike him as being palpably beyond the jurisdiction of the Provincial Legislature, it may lead to a waste of public money and also to needless complications later on.

Now, to come to the main point at issue, sub-clause 13(*d*)(*i*) of clause 2 of the Bengal Money-lenders Bill, 1939, provides as follows:—

"Loan" means an advance, whether of money or in kind, made on condition of repayment with interest and includes any transaction which in substance in a loan but does not include a loan advanced before or after the commencement of this Act by a bank which was a schedule bank the first day of January, 1939, or by a bank which has been declared to be a notified bank under section 3 whether or not such bank was a schedule bank or was so declared to be a notified bank, as the case may be, at the time the loan was advanced.

In this connection, the principal contention of the Opposition has been that this sub-clause definitely trenches upon the exclusively federal sphere of legislation in so far as it attempts to include within its purview "the conduct of banking business by corporations" as laid down in item No. 38 in List 1 of the Seventh Schedule to the Government of India Act, which is the exclusive Federal List. They further contend that the Provincial Legislature no doubt has the right to enact legislation dealing with money-lending and money-lenders as contained in item No. 27 of the Exclusive Provincial List of the said Schedule. But as money-lending, in their opinion, is the *sine qua non* of conducting banking business, the Provincial Legislature would be trespassing on the forbidden field of Federal legislation if the Bill contains provisions as in the sub-clause referred to. The existence of such provision in the Bill, they feel, will no doubt involve, by implication, legislation on money-lending by banking corporations. The Opposition quoted from well-known authorities on Economics to show that money-lending

formed an essential feature of banking. On the basis of those arguments, they claim, that all corporations transacting banking business would *ipso facto* come within the purview of the Bill in contravention of statutory powers conferred on the Federal Legislature as contemplated in section 100 of the Government of India Act.

On the other hand, the contention of the Government is that money-lending is only one amongst numerous other functions which a banking company may transact, and so it cannot be regarded as an essential feature of the business of banking. In support of this point of view, they rely on the definition of the term "banking companies" which occurs in section 277 (*g*) of the Indian Companies Act, 1937. According to this definition, "banking company" means "a company which carries on as its principle business the accepting of deposits of money on current account or otherwise, subject to withdrawal by cheque, draft or order, notwithstanding that it engages in addition in any of the other 17 forms of business of which lending of money is one." The very fact that money-lending forms only one amongst several other items included in this list, is cited by them to prove that money-lending is only a subsidiary and not an essential function of banks.

The Government further contend that since the right of enacting legislative measures for dealing with money-lenders and money-lending is within the exclusive provincial jurisdiction, any incidental encroachment on the exclusively Federal sphere of legislation should not be given such prominence as to fetter the undoubted right of the province to enact laws for controlling money-lending operations.

I have tried my best to appreciate the real import of the arguments advanced from both sides of the House in course of discussion on the point of order raised, and it appears to me, that a proper decision on this question would hinge on the exact connotation of the term "Banking." I have consulted some recognised authorities on Banking as well as on Constitutional Law in this connection, and I found them almost unanimous in holding that the expression "Banking" is wide enough to embrace every transaction coming within the legitimate business of a banker which certainly includes money-lending.

Wharton in his "Law Lexicon" defines the word "Bank" as "commercially a place where money is deposited for the purpose of being let out to interest, returned by exchange, disposed of to profit, or to be drawn out again as the owner shall call for it."

"Banking" has been defined in Stroud's "Judicial Dictionary" in the following words:—

"The expression 'banking' is wide enough to embrace every transaction coming within the legimate business of a banker."

According to the definition given in Palgrave's Dictionary of Political Economy, "The business of banking, generally speaking,

consists in taking money on deposit and also in issuing drafts by which the transfer of capital is facilitated. The funds thus obtained together with those supplied by the capitals of the banks themselves are employed in making advances, in the discounting of bills and in investiments in first class securities, such as, the public funds, some parts being always kept to meet current requirements."

In State Savings Bank of Victoria Commissioners *vs.* Pernewan Wright & Co., Ltd. (1915) (*vide* 9 C.L.R , p. 457) it was held by the Court that the essential characterstics of the business of banking are the "collection of money by receiving deposits upon loan, repayable when and as expressly or impliedly agreed upon, and the utilization of the money so collected by lending it again in such sums as are required."

Wynes in his "Legislative and Executive Powers in Australia" at page 142, speaking of banking, says, "It will be noted that this power differs from the 'Corporation' power in that it is expressed to relate to 'Banking' and not only 'Banks'; it extends to every phase of the business of a bank and all operations of banking as such." Further on he says, "Banking is an expression which is large enough to embrace every transaction coming within the legitimate business of a Banker."

Clement in his standard work on the Canadian Constitution accepts the same interpretation of the term "Banking" (page 800).

In the well-known case of Tenant *vs.* Union Bank of Canada (*vide* Appeal Cases No. 1894, p. 46), Their Lordships of the Privy Council observed:—

"It also comprehends 'Banking' an expression which is wide enough to embrace every transaction coming within the legitimate business of a banker. The appellant's counsel hardly ventures to dispute that the lending of money on the security of goods or of documents representing the property of goods, was a proper banking transaction."

Halsbury (Vol. I at page 782) says:—

"The judicial recognition of the banker's lien implies the inclusion in banking business of the making of advances or the granting of overdrafts to customers."

It would thus be evident that the framers of the Government of India Act had probably a definite purpose in using the word "Banking" in the exclusive Federal List. In all probability, they intended to prevent the enactment of legislation by Provincial Legislatures on money-lending by banking corporations; and that item No. 27 of List II of the Seventh Schedule should be interpreted as conferring power to the provinces to legislate on all the money-lending transactions except those by banking corporations.

In dealing with a question of similar nature which arose in the Canadian Parliament, Jennings in his well-known book on the "Constitutional Laws of the British Empire" says:—

"The question is then as to 'true nature and character' of the legislation or as to what is 'the pith and marrow' of the legislation. If the purpose of legislation is to regulate banking, then only the Dominion is competent; if the purpose is to impose a direct tax on banks for the raising of a provincial revenue, then the province is competent. But in both cases it must be the real object of the legislation. The province, for instance, must not, in pretended exercise of its taxing power, in fact regulate banking."

There seems to be a cogent reason also why the function of making laws affecting the conduct of banking corporations should have been assigned to the Federal Legislature under the Government of India Act, 1935. The fundamental principle which the framers of the Act seem to have kept in view in demarcating the respective jurisdictions of the Federal Legislature and the Provincial Legislature was to include in the Federal List those matters which affect the country as a whole and not one province alone, while matters which would affect only one particular State or Province came to be incorporated in the Provincial List. In this view of the matter, it stands to reason that in the interest of homogeneity of legislation, banking corporations, the business of most of which extend over several provinces, should be treated on a footing different from ordinary money-lenders as their business is generally restricted within the province of their domicile.

Here, I may refer also to section 99(*1*) of the Government of India Act, 1935, which makes the position clear inasmuch as it lays down that—

"Subject to the provisions of this Act the Federal Legislature may make laws for the whole or any part of British India or for any Federal State, and Provincial Legislature may make laws for the province or any part thereof."

From what has been said so far, two points seem to emerge clearly, viz., (1) that money-lending cannot be regarded as a mere incidental function of the banking corporations, but rather a vital matter materially affecting its scope and function and its very existence; (2) that there has been an apparent overlapping between the Federal and the Provincial spheres of legislation by some important provisions of the Bill under discussion.

The question, therefore, is to devise means to reconcile the position with a view to giving scope for the proper functioning of both the Federal and the Provincial Legislatures in their distinctive fields. In enacting the Constitution Act it could not have been the intention of Parliament that there should be a conflict between these two spheres

of legislation. So, I should try to interpret the points which have given rise to some doubts, in a manner so as to reconcile the apparent conflict, if possible. It is true that in the scheme of the Government of India Act, an attempt has been made to draw up two exclusive lists, as exhaustive as possible, for dividing the jurisdiction of the Federal and Provincial Legislatures, but knowing the limitations of human ingenuity, the authors of the Constitution Act have also provided for the avoidance of any conflict that could not be anticipated at the time but might arise later on.

In the Motor Spirit Taxation Act Case (2 F.L.J., at p. 49), the Hon'ble the Chief Justice Sir Maurice Gwyer observes as follows:—

"Reconciliation should be attempted between two apparently conflicting jurisdictions by reading the two entries together and by interpreting and where necessary modifying the language of the one by that of the other. If, indeed, such reconciliation should prove impossible, then and then only will the *non-obstante* operate and the Federal power will prevail. It has been shown that if legislative power is given its widest meaning, there is a common territory shared between them and an overlapping of jurisdiction is the inevitable result; and this can only be avoided if it is reasonably possible to adopt such an interpretation as would assign what would otherwise be common territory, to one or the other. To do this, it is necessary to construe the legislative power defined and described by one entry or the other in a more restricted sense than it can theoretically possess."

To my mind, a reconciliation of this conflict is possible in only two ways, namely, either by restricting the sphere of legislation by the Provincial Legislatures so far as money-lending is concerned to money-lending by all money-lenders except banking corporations and leaving alone the money-lending business of the banking corporations to the Federal Legislature; or by restricting legislation on the functions of the banking corporations, as contemplated in item No. 38 of the Federal List, only to accepting deposits and permitting withdrawals of the some by means of cheques, etc., and leaving the entire field of legislation on money-lending to the control of the Provincial Legislature.

Of these two alternative courses, the first seems to me to be more appropriate as, in the words of Chief Justice of India, Sir Maurice Gwyer, "It reconciles the conflicts between the two entries without doing violence to the language of either and also maps out their respective territories on a reasonable and logical basis."

Mr. E. C. Ormond proposed a way out of this "impasse" by suggesting that steps might be taken to obtain the opinion of the Federal Court in regard to the constitutional issues involved in the point of order in the manner contemplated under section 213(*1*) of the Government of India Act, 1935. But there seems to be obvious difficulties in

acting up to this suggestion. The practical inconveniences of this procedure were stressed by Lord Haldane in Attorney-General of British Columbia *vs.* Attorney-General for Canada (1914) A.C. 153, in the following words—

"Under this procedure questions may be put which it is impossible to answer satisfactorily. Not only may the question of future litigants be prejudiced by the Court laying down principles in an abstract form without any reference or relation to the actual facts, but it may turn out to be practically impossible to define a principle adequately and safely without previous ascertainment of the exact fact to which it is to be applied."

Lord Loreburn in delivering the judgment of the Judicial Committee in Attorney-General for Ontario *vs.* Attorney-General for Canada (1912) A.C. 571 has pointed out "that if the procedure ensured a reference only of concrete cases, and not of purely hypothetical questions, there might not be much of an inconvenience. Human nature being what it is, the judges will be more than human, if they can be persuaded to depart from opinions already pronounced by them though such advisory opinions may not have a binding force upon them. And this is a further consideration against the expediency of inviting opinions beforehand."

Weighing the pros and cons of the contention of both sides on the issue raised, I find that there is considerable force in the contention of the Opposition that money-lending is not only a legitimate function of the banking corporations but perhaps the most important function. Although so eminent an authority as Halsbury in defining "Banking Business" says—"The business of banking, strictly speaking, is the receipt of money from or on account of customer, to be repaid on demand or when drawn on by cheque", I am not prepared to say that it can be asserted beyond any shadow of reasonable doubt that legislation of a Provincial Legislature on money-lending affecting the business of banking corporations would really be a definte encroachment on the exclusive sphere of Federal legislation. Indeed, in my opinion it would be more precise to hold that the proposed sub-clause really lies on the border-land of the Federal and Provincial spheres of legislation

In this connection, I cannot but take into consideration the fact that similar legislations including banking business by corporations within their purview have already been passed by several other Provincial Legislatures,—a fact, which it is needless to mention, has deepened the element of doubt in my mind to which I have just referred.

For my guidance in a case like this, I have searched for precedents not only from the proceedings of different legislatures in this country but also from those of other parliamentary institutions abroad. But our Rules and Standing Orders being quite different from what obtains

elsewhere, the precedents of those countries are not of much assistance to me. Here, I also invite the attention of the House to the Statement of Objects and Reasons appended to the Bengal Money-lenders Bill, 1939, which contains the following admission on the part of the Hon'ble Minister in charge of the Bill:—

"The powers of the Provincial Legislature are to some extent limited by the terms of Articles 28 and 38 of List 1 of Schedule Seven of the Government of India Act, 1935; and the limitation extends not only to prevent fresh legislation on the matters covered by those articles, but also to prevent amendment of such parts of the Bengal Money-lenders Act, 1933, as relate to them. For this reason no attempt has been made to amend the Act of 1933 but a self-contained Bill has been framed, confined to such matters as it is believed are within the competence of the Provincial Legislature."

While the point of order was being discussed in this House, I enquired of the Hon'ble Minister in charge of the Bill, as to why he was shifting his ground now and insisting on bringing money-lending business by the banking corporations within the purview of the present Bill. The Hon'ble Minister stated that he had been better advised since as a result of which he had changed his views on the matter.

I mention this also to show that the point at issue is not, as I said before, altogether free from doubt so as to admit of a clear-cut and definite decision.

With the advent of Provincial Autonomy, as a result of insistent demand of the country, the provinces are naturally anxious to safeguard and also to extend in all possible directions their rights and spheres of activities, and the Chair being the custodian of the rights and privileges of the Council cannot but share this feeling. But it must also be remembered that in their anxiety to extend their activities, the Provincial Legislatures may be tempted to overstep the limits imposed on them by the Statute and pass laws which might not bear scrutiny when challenged before a court of competent jurisdiction. The Chair is thus confronted with the difficult task of guiding the House in a manner that its rights and privileges may not be curtailed in any way, ensuring at the same time that bad laws might not be enacted.

I have given most anxious consideration over this matter and considering all aspects of the question I have come to the conclusion that when I am not free from doubts in my mind I am not in a position to hold that the matter is outside the scope of the Provincial Legislature. Unless in my mind it is indisputably clear that the provision of the Bill relating to banks is beyond the jurisdiction of the Provincial Legislature, I shall not by my ruling deprive the Council of the opportunity to discuss any clause on merits and arrive at its own

decision. In the circumstances, I give the benefit of doubt in favour of the contention that the sub-clause referred to in the point of order is *intra vires* of the Provincial Legislature. The discussion of the clause referred to in the point of order may accordingly be proceeded with.

Clause 35.

Mr. PRESIDENT: Clause 35 stand part of the Bill.

Mr. HUMAYUN KABIR: May I ask you, Sir, what happened to amendments Nos. 610-612?

Mr. PRESIDENT: I will take up the last amendments first and then come back to these.

Rai Sahib INDU BHUSAN SARKER: Sir, I beg to move that clause 35 of the Bill be omitted.

Sir, section 35 of the Bill provides for reopening of past transactions and closed accounts and refunding of any amount received by the lender in excess of a sum twice the principal originally lent. This section should be altogether deleted in view of the following considerations:

Such a procedure will do away with finality in transactions between the parties, so that parties will have no assurance as to when, after a final adjustment, a further readjustment may be made. In the High Court a decree may be executed within 12 years from the making of it, and if any execution proceedings are taken within such 12 years, the right to execute the decree will continue for 12 years from such execution, and such extension of time may go on indefinitely. In courts other than High Court, decrees may be executed within 12 years of the decree. It ordinarily takes about 2 years from institution for a contested suit to be decreed, so that if the borrower desires to harass the lender he may have accounts up to about 24 years opened as regards suits outside the High Court, and as regards suits in the High Court up to an indefinite past. In this country, the ordinary money-lender does not preserve books and papers for longer than 3 or 4 years. Big businessmen preserve them for some years longer.

If accounts are allowed to be reopened in the way contemplated by the Bill for 24 years or longer, the lenders will have to perform an impossible task as they will not have the necessary books and papers, nor the men knowing the transanction, as more than a generation may pass before the reopening is demanded. Besides, another serious injustice will be caused to the lender. He may have come to a division with his co-sharer or partner on the basis of the previous account or adjustment and may have paid income-tax, super-tax, and surcharges,

and also heavy stamp duty on the institution of suits and on decrees. All these cannot be reopened, and the money paid in taxes, stamps cannot be recovered. Nor is the party to whom a debt has been allotted on partition of joint property or on dissolution of partition be protected if old accounts are sought to be reopened. It will mean not only grave injustice but also ruin in many cases.

With these few words, Sir, I commend my amendment for the consideration of the House.

Mr. PRESIDENT: Amendment moved: that clause 35 of the Bill be omitted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose the motion. The amendment that has been proposed is of a revolutionary character. If it was a via media, I could have thought of accepting it. But now it is suggested that the clause should be omitted and so I cannot accept the amendment. I, therefore, oppose it.

Rai Sahib INDU BHUSAN SARKER: If that be the view of the Hon'ble Minister, I beg leave to withdraw my amendment.

Mr. PRESIDENT: Is it the pleasure of the House to grant leave to Mr. Sarker to withdraw his amendment?

(The amendment was, by leave of the House, withdrawn.)

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move that in sub-clause (*1*) of clause 35 of the Bill, after the words "suit to which this Act applies" appearing in lines 2 and 3, the following words be inserted, namely:—

"or in any suit brought by a borrower for relief under this section."

Sir, in explaining my amendment I beg to submit that the clause as it stands in the Bill proposes to reopen transactions and to give relief to debtors in many cases and in some cases to allow overpayments made to the creditors in excess of the standard laid down in the Bill to be refunded to debtors. But it seems to me that the phraseology used is unhappy and a meaning directly contrary to that has been effected. The clause begins by saying, "Notwithstanding anything contained in any law for the time being in force, if in any suit to which this Act applies....." The condition precedent to the applicability to this beneficial clause is that there must be a "suit to which this Act applies." I would submit that the expression "in any suit to which this Act applies" has been clearly defined in the Bill. It means, for all practical purposes in almost every case, a suit instituted

by a creditor. So the effect of this would be that, if we leave the clause unamended, this relief could be given to the debtor only in a suit brought by the creditor. Although the debtors have been given large privileges in this clause in many ways, they have no right to move the Court as the Bill stands. A lender, who has already received more than double the principal, will not sue for the balance and thereby allow the court to dismiss his claim and, in addition, force him to refund the excess to the borrower. The borrower must be given independent right to move the court and I want to introduce these words "or in any suit brought by a borrower for relief under this section." The effect of this would be that relief should be easily available to borrowers in suitable cases without any difficulty. Without the amendment, the borrower will not have an independent right to move the court. The clause declares large rights to borrowers but bars a remedy. I beg to submit that although it is a drafting amendment, its effect would be extremely important. So, I beg to submit that it should be accepted. The amendment is not contrary to the policy of the clause. It makes it effective. So, the addition of these words will create some substantial change but no change in the intention of the clause. The amendment would make the provisions of the clause effective which, without it, would remain a mere pious wish. With these words, I submit that it should be accepted.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) of clause 35 of the Bill, after the words "suit to which this Act applies" appearing in lines 2 and 3 the following words be inserted, namely, "or in any suit brought by a borrower for relief under this section."

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: May I ask a question? Section 37 deals with applications by borrowers to a court to get some relief. Do you think that that section does not cover the grounds now sought to be covered by this amendment?

Khan Bahadur NAZIRUDDIN AHMAD: I have not been given time which is necessary for a full consideration of the subject in order to effectively reply to the question. So, I submit that so far as clause 35 is concerned, without these words, relief will be practically impossible and the court will not be in a position to give any relief to debtors in suitable cases.

With regard to clause 37, in order to answer the question, I would require some time to carefully consider the matter. I am just reminded by one of my friends that clause 37 deals with taking of accounts and that it is very restricted in character, whereas clause 35 is very wide. Clause 37 applies when something is due to the lender. The amendment applies in a converse case, namely, when due to overpayments,

the borrower is entitled to a refund from the lender. Unless the amendment is made, a large number of borrowers will be out of court, and clause 37 will not apply to them in such cases. Therefore, I think, Sir, that the insertion of these words will be highly beneficial.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: In view of the explanation given by my friend, I accept the motion.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*) of clause 35 of the Bill, after the words "suit to which this Act applies" appearing in lines 2 and 3, the following words be inserted, namely:—

"or in any suit brought by a borrower for relief under this section."

(The amendment was agreed to.)

Rai Sahib INDU BHUSAN SARKER: Sir, I beg to move that in sub-clause (*1*) (*c*) of clause 35 of the Bill, for the words "thereof" appearing at the end of line 5, the words "of such payment or allowance in account as aforesaid" be substituted.

I hope that the Hon'ble Nawab Bahadur will kindly consider whether he can accept this amendment or not. Sir, the reasons in favour of this amendment I have already mentioned. Sub-clause (*1*) (*c*) reads as follows:—

"Notwithstanding anything contained in any law for the time being in force, if in any suit to which this Act applies, whether heard *ex-parte* or otherwise, the Court has reason to believe that the exercise of one or more of the powers under this section will give relief to the borrower, it shall exercise all or any of the following powers as it may consider appropriate, namely:—

(*c*) release the borrower of all liability in excess of the limits specified in clauses (1) and (2) of section 30;

The court has reason to believe that the exercise of one or more of the powers under this section will give relief to the borrower, it shall exercise all or any of the following powers as it may consider appropriate, namely, shall—

(*c*) release the borrower of all liability in excess of the limits specified in clauses (1) and (2) of section 30.

Of course, there is section 30, which runs as follows:—

Notwithstanding anything contained in any law for the time being in force, or in any agreement,

(*1*) no borrower shall be liable to pay after the commencement of this Act—

(*a*) any sum in respect of principal and interest which together with any amount already paid or included in any decree in respect of a loan exceeds twice the principal of the original loan,

(*b*) on account of interest outstanding on the date up to which such liability is computed, a sum greater than the principal outstanding on such date,

(*c*) interest at a rate *per annum* exceeding in the case of—

(*i*) unsecured loans, ten *per centum* simple,

(*ii*) secured loans, eight *per centum* simple,

whether such loan was advanced or such amount was paid or such decree was passed or such interest accrued before or after the commencement of this Act.

Mr. PRESIDENT: Is there any necessity for all these sections being read out? Please give the substance.

Rai Sahib INDU BHUSAN SARKER: Sir, I was just reminding the House about these clauses.

No borrower shall after the commencement of this Act be deemed to have been liable to pay before the date of such commencement in respect of interest paid before such date of included in a decree passed before such date, interest at rates per annum exceeding those specified in sub-clause (*c*) of clause (1).

Then, 35 (*1*) (*d*) runs as follows:—

if anything has been paid or allowed in account on or after the first day of January, 1939, in respect of the liability referred to in clause (*c*) order the lender to repay any sum which the Court considers to be repayable in respect thereof.

Provided that in the case of a loan to which the provisions of sub-section (*2*) of section 29 apply the lender or money-lender and each of his assignees shall be liable to repay the sum which the Court considers to be repayable in respect of and in proportion to the sum received by such lender or money-lender and such assignee.

Khan Bahadur ATAUR RAHMAN: Sir, we cannot hear the honourable member. We would be able to follow him if he would kindly go to the microphone.

Mr. PRESIDENT: Mr. Sarker, there has been a request from honourable members that you should speak loudly or you may go to the microphone.

Rai Sahib INDU BHUSAN SARKER: All right, Sir. I am going to the microphone.

Sir, that is sub-clause (*1*) (*d*) of clause 35 of the Bill. I have already mentioned what paragraphs (*c*) and (*e*) contain. The Hon'ble Nawab Bahadur said that he was willing to consider any alteration of the Bill or any amendment which might help in giving relief to certain specified classes. So, I am placing this amendment for his consideration. My amendment says that paragraphs (*c*), (*d*) and (*e*) of clause 35 be omitted. The reasons I have already mentioned before.

Sir, with regard to the final adjustment, I may say that it is very difficult to have the accounts adjusted. There is a mention of 12 years. But the right to execute a High Court decree will continue for more than 7 years. So necessarily some 15 to 20 years may elapse in final execution of the decree. Further, the parties may also have paid income-tax, super-tax, etc. In that case, their dues have to be paid to Government and if the accounts be reopened—there may also be partitions among the co-sharers—then really the parties will be in a difficulty because the dues which they may have paid to Government in the shape of income-tax, super-tax, etc., may not be refunded. So these difficulties may crop up hereafter. For these reasons, I think that these paragraphs should be omitted from the Bill.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) of clause 35 of the Bill, paragraphs (*c*), (*d*) and (*e*) be omitted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose the motion. My friend said that this is an unimportant part of section 35 which can be rightly omitted. My friend, if he has read the section, will find that sub-clause (*c*) aims at making section 30,—the interest clause,—effective. If that sub-clause of clause 35 disappears, then along with it a clause which has already been passed has also to go.

As regards paragraphs (*d*) and (*e*), I may say that regarding (*d*), my friend has said nothing. As regards (*e*), he has said something. Sir, this House knows that this legislation is due to the abnormal condition through which the country is passing. Had the country been in a normal state, this sort of legislation would not have been

attempted. But the fact that the country is in an abnormal economic condition has necessitated a provision like this. So, I do not believe that it would be to the interest of the country to accept the amendment which has been proposed by my friend and I oppose it.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*) of clause 35 of the Bill, paragraphs (*c*), (*d*) and (*e*), be omitted.

(The amendment was negatived.)

Mr. MESBAHUDDIN AHMED: Sir, I beg to move that in sub-clause (*1*) (*d*) of clause 35 of the Bill, for the word "thereof" appearing at the end of line 5, the words "of such payment or allowance in account as aforesaid" be substituted.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) (*d*) of clause 35 of the Bill, for the word "thereof" appearing at the end of line 5, the words "of such payment or allowance in account as aforesaid" be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*) (*d*) of clause 35 of the Bill, for the word "thereof" appearing at the end of line 5, the words "of such payment or allowance in account as aforesaid" be substituted.

(The amendment was agreed to.)

Rai Sahib JATINDRA MOHAN SEN: Sir, I beg to move that in sub-clause (*1*) of clause 35 of the Bill, in paragraph (*i*) of the proviso, for the words "more than twelve years" appearing in line 4, the words "more than three years in the case of unregistered obligation, not more than six years in the case of registered obligation and not more than twelve years in the case of mortgage bonds" be substituted.

Sir, in moving my amendment, I beg to say a few words. Obligations are of three kinds—unregistered obligations, registered obligations and obligations based on mortgage bonds.

Now, the Indian Limitation Act has provided for three different periods of limitation for these different kinds of obligations. The Limitation Act has provided that in the case of unregistered obligation, the period within which the suit is to be instituted is three years from the date when the obligation is to be discharged. Similarly in the case of registered obligation, it is 6 years and in the case of mortgage bonds

the period of limitation is 12 years. So, my amendment proposes to limit the period within which the reopening can be made to such periods as are provided in the Indian Limitation Act, that is 3 years in the case of unregistered obligation, 6 years in the case of registered obligation and 12 years in the case of obligations arising out of mortgage bonds. I do not want to dilate upon my reasons. The reasons to my mind are quite apparent. In cases of simple obligations which are unregistered, the period should not be too long and in the case of registered obligations, the period may be a little longer for the reasons which certainly the legislators had in their mind when they provided for 6 years' limitation in such cases. My amendment also proposes that the period of limitation should be 12 years in the case of mortgage bonds. My amendment tries to disturb the present provisions in the Bill as little as possible. In the proposed amendments Nos. 634 to 639, the period was to run from the date of the application, but I do not want to disturb the provisions of the Bill. I am only trying in my amendment to limit the period during which adjustments can be made to 3, 6 and 12 years. The Hon'ble Minister in charge of the Bill has said that he is prepared to accept some modifications with regard to clause 35 and my most respectful submission to him is to see if he can accept this modification. This will not change the policy of the Government. I quite appreciate his apprehensions with regard to the present economic conditions in the country and my submission to him through you, Sir, is this that there would not be much harm done if this amendment is accepted because the policy is not changed and only the period has been made a little shorter in respect of the reopening of cases.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) of clause 35 of the Bill, in paragraph (*i*) of the proviso, for the words "more than twelve years" appearing in line 4, the words "more than three years in the case of unregistered obligation, not more than six years in the case of registered obligation and not more than twelve years in the case of mortgage bonds" be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, my friend is under some misapprehension. All that has been attempted in this section is that when we provided that under no circumstances a lender should try to receive more than double the capital from the same party, we thought that there might be some difficulty in the case of lenders. To save them from that difficulty, we have provided in clause 35 that if there had been an adjustment of account 12 years prior to the suit, that adjustment of account would not be interfered with. It means that any adjustment entered into between the parties 12 years prior to the institution of the suit will be considered as valid. From that time up to the period of 12 years, the lender will not be entitled to recover more than double the capital. It

is just to save the lenders that this important provision has been made, particularly the lender who has kept the loan pending for 12 years. This is all that has been provided for in the clause. If I accept the amendment which my friend has proposed, it will limit the intention of the framers of the Bill and will land us in difficulty. I hope that after the explanation that I have given, my friend will not oppose the passing of this clause as it is provided here, which is really in the interest of the lender and not in the interest of the borrower.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*) of clause 35 of the Bill, in paragraph (*i*) of the proviso for the words "more than twelve years" appearing in line 4, the words "more than three years in the case of unregistered objection, not more than six years in the case of registered obligation and not more than twelve years in the case of mortgage bonds" be substituted.

(The amendment was negatived.)

Mr. HUMAYUN KABIR: Sir, I beg to move that in sub-clause (*2*) of clause 35 of the Bill, at the end of paragraph (*b*), the following be added, namely:—

"but the judgment debtor shall be entitled to get back his property from such person, if any, on payment of the consideration money along with interest at six *percentum* per annum from the date of transfer or sale as the case may be, and the court on payment of such amount shall order the restoration of the property to the judgment debtor."

Sir, I think that it will be very difficult for the Hon'ble Minister to oppose this amendment, particularly after what he has stated just now that this Bill is intended to protect primarily the small borrower, and the amendment which I have moved is concerned primarily with the small borrower who is an agriculturist. In many cases, the property of small agriculturists is sold as a result of a suit and certain provision have been made in this Bill by which they can get back their property. In sub-clause (*2*) it is now provided: "If in exercise of the powers conferred by sub-section (*1*) the court reopens a decree, the court shall after affording the parties an opportunity of being heard pass a new decree in accordance with the provisions of this Act and may award to the decree-holder such costs in respect of the reopened decree it thinks fit." Again, it shall not do anything which affects the right acquired *bona fide* by any person other than the decree-holder, in consequence of the execution of the reopened decree. And it is here that I want to move my amendment. I also do not want that a *bona fide* purchaser should be actually injured and that any of his rights should be taken away without giving him adequate compensation. But on the other hand, in order to protect the small agriculturist, here should, I think,

be provision according to the spirit of this Bill that the judgment-debtor may get back the land provided he pays the amount of money which was actually paid by the purchaser. I have therefore moved that the following be added to this sub-clause:—

"but the judgment-debtor shall be entitled to get back from such person, if any, on payment of the consideration money along with interest at six *percentum* per annum from the date of transfer or sale as the case may be and the court on payment of such amount shall order the restoration of the property to the judgment-debtor."

Now, Sir, it has generally been provided in clause 35 that transactions may be reopened up to a certain period, viz., 12 years, and there is no attempt to extend that period in the amendment which I have moved. Accepting the other provisions which have been made in clause 35, I only want the House to consider the case of a particular type of judgment-debtor, the small agriculturist debtor. His land is often sold and after his land is sold, he is reduced to the position of a landless labourer, an agricutlural labourer, and any increase in the number of agricultural labourers, I think all sections of the House will agree, is not desirable. It is desirable that there should be as far as possible peasant proprietors, and it is in order to enable the peasant to get back his land under certain conditions that I have moved this amendment. I hope that the Hon'ble Minister will accept this amendment.

Mr. PRESIDENT: Amendment moved that in sub-clause (*2*) of clause 35 of the Bill, at the end of paragraph (*b*), the following be added, namely:—

"but the judgment-debtor shall be entitled to get back his property from such person, if any, on payment of the consideration money along with interest at six *percentum* per annum from the date of transfer or sale as the case may be, and the court on payment of such amount shall order the restoration of the property to the judgment-debtor."

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, the general idea is that the lender can have his pound of flesh from the borrower, but in this case the borrower will have his pound of flesh in return from the lender. So far, so good. So far as the lender and the borrower are concerned, I do not like to interfere, but if the third party's interests are affected, I think it is for us to see that they are not so affected. The third party after buying certain property may have built a house or otherwise improved it. Is it fair for us to say that the third party's interests should in any way be affected or interfered with? I think that will not be a fair proposition. I am prepared to allow you to extort as much flesh from the lender as you would like to have.

But why should you in a money-lending affair interfere with the enjoyment of a third party? Let them have whatever they can get out of this and then settle the matter amongst the borrowers and lenders. Don't go further. So, I oppose the motion.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*2*) of clause 35 of the Bill, at the end of paragraph (*b*), the following be added, namely:—

"but the judgment-debtor shall be entitled to get back his property from such person, if any, on payment of the consideration money along with interest at six *percentum* per annum from the date of transfer or sale as the case may be, and the court on payment of such amount shall order the restoration of the property to the judgment-debtor."

(The amendment was negatived.)

Rai Sahib INDU BHUSAN SARKER: Sir, I beg to move that in sub-clause (*2*) of clause 35 of the Bill, paragraph (*e*) be omitted.

Sir, paragraph (*e*) of sub-clause (*2*) of clause 35 reads as follows:—

(*e*) shall direct that, in default of the payment of any instalment ordered under clause (*d*), the decree-holder shall be put into possession of the property referred to in clause (*c*) and that the amount for which the decree-holder purchased such property in execution of the reopened decree shall be set off against so much of the amount of the new decree as remains unsatisfied.

Sir, I have already mentioned the reason for this proposed omission.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*2*) of clause 35 of the Bill, paragraph (*e*) be omitted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose it. I do not know what will be the effect if this paragraph goes out of the clause. It is one of the limbs of the clause, and the whole thing will be defective if it is omitted. So, I think that there is no justification for accepting my honourable friend's motion.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*2*) of clause 35 of the Bill, paragraph (*e*) be omitted.

(The amendment was negatived.)

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move that in sub-clause (*5*) of clause 35 of the Bill, for the words "who satisfies the court" appearing in line 2 of the words "if the court is satisfied" be substituted.

Sir, it is only a verbal amendment. The reason for this amendment is that the Bill clause, as it stands, throws the onus on the parties to satisfy the court, but the amendment seeks to provide that if the court is satisfied without being moved by any party, the court can give relief. This is more general, and that is why this amendment has been proposed.

Mr. PRESIDENT: Amendment moved: that in sub-clause (5) of clause 35 of the Bill, for the words "who satisfies the court" appearing in line 2, the words "if the court is satisfied" be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: I accept it.

Mr. PRESIDENT: The question before the House is: that in sub-clause (5) of clause 35 of the Bill, for the words "who satisfies the court" appearing in line 2 the words "if the court is satisfied" be substituted.

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 35, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 36.

Mr. PRESIDENT: Clause 36 stand part of the Bill.

Mr. HUMAYUN KABIR: Sir, I beg to move that at the end of clause 36 of the Bill, the following words be added, namely:—

"or by the sale of holding where the judgment-debtor's holding, including homestead land, is two acres or less."

Sir, I think that this again is an amendment which Government should accept. There are provisions in certain cases where property of a particular type is not attached or sold in settlement of a debt. I think that household utensils and implements for cultivation, their personal clothings and other belongings are not liable to be attached or sold in settlement of debts, but the same principle ought to be carried a little further, because if a man has no land to till very often he has no means of sustenance, and I only want to provide in the case of very small agricultural holders, very small peasants who have holdings of two acres or less, that their land should not be lost under any circumstances at all and that their land should not be sold in order to

settle any particular debt. In such cases, it may be that the debt may be realised by taking a portion of the crop or finding some other method by which the demand of the lender might be met. Even in the Bill which Government has proposed, there are certain exemptions. In clause 36 it is provided: "Notwithstanding anything contained in any law for the time being in force, no Court shall order execution of a decree passed in any suit to which this Act applies by arrest and detention in prison of the judgment-debtor." The ground for that is that if a judgment-debtor is detained in prison, his family will be without any sustenance, and I think it logically follows that if his land is taken away he will be equally without any sustenance. So, if we really want to give that relief to the agriculturists, which it is the professed object of this Bill to give, I think that you have to accept this amendment. I, therefore, commend this amendment for the acceptance of the House.

Mr. PRESIDENT: Amendment moved: that at the end of clause 36 of the Bill, the following words be added, namely:—

"or by the sale of holding where the judgment-debtor's holding, including homestead land, is two acres or less."

Mr. NARESH NATH MOOKERJEE: Sir, may I just add a small rider to this amendment moved by my friend?

Mr. PRESIDENT: Yes.

Mr. NARESH NATH MOOKERJEE: Sir, I want to add the words "except where the land is situated within a municipal area." Sir, if an amendment of such a nature is carried into law, while we have the fullest sympathy with the spirit of the amendment, I feel that it will create extreme difficulties in cases of lands situated within municipal areas.

Mr. HUMAYUN KABIR: Is it necessary? Does not the word "holding" imply that?

Mr. KAMINI KUMAR DUTTA: The term "holding" has not been defined in this Bill.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, my friend wants to bring in an amendment which apparently seems to be reasonable. But if he will care to see the provisions of the Agricultural Debtors Act, he will find that in the case of the Agricultural Debtors Act, one acre of land has been left untouched. Where the

Agricultural Debtors Act applies for the next 10 years, this Bill will not apply there. So, nobody will care to touch or think of a Bill of this nature even if it is carried into law as long as the Agricultural Debtors Act is working in the mufassal area. It is only in the case of the town area, where this Bill will be operative where the Agricultural Debtors Act cannot reach. The Agricultural Debtors Act deals with the agriculturists only outside municipal area, whereas this law will apply within municipal area for the next 10 years. When the Agricultural Debtors Act dies its natural death, then only this will be of some assistance.

Mr. HUMAYUN KABIR: Is there any bar to applying this Act to agricultural areas?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Nobody will care to touch the law as long as the Agricultural Debtors Act is there.

Mr. AMULYADHONE ROY: That is not the case.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: If I accept Mr. Kabir's motion, it means that I have first to amend the Agricultural Debtors Act.

So, protection has been given to such portion of the man's holding which is just one acre. If you say that it should be two acres, you ought to amend the Agricultural Debtors Act first. If I accept the amendment here, it will affect the Agricultural Debtors Act indirectly which I have not the power to do. That is my first point.

As regards the amendment of my friend Mr. Mookerjee, I am afraid, he has missed the point. There is no meaning in a motion of this character. I hope the honourable mover of the amendment will withdraw it.

Mr. PRESIDENT: The question before the House is: that at the end of clause 36 of the Bill, the following words be added, namely:—

"or by the sale of holding where the judgment-debtor's holding, including homestead land, is two acres or less."

Since which an amendment has been moved to this amendment, namely:—

That the following words "except where the land is situated within a municipal area" be added.

(The amendment to the amendment was negatived.)

(The original amendment of Mr. Kabir was then put to vote.)

The House divided with the following result:—

AYE—1.

Kabir, Mr. Humayun.

NOES—20.

Ahmad, Khan Bahadur Naziruddin.
Ahmed, Mr. Mesbahuddin.
Baksh, Mr. Kader.
D'Rozaria, Mrs. K.
Haider, Nawabzada Kamruddin.
Hosain, Khan Bahadur Saiyed Muazzamuddin.
Huq, Khan Bahadur Syed Muhammad Ghaziul.
Ibrahim, Khan Bahadur Maulvi Mohammad.
Karim, Khan Bahadur M. Abdul.
Khan, Khan Bahadur Muhammad Asaf.
Khan, Maulana Muhammad Akram.
Molla, Khan Sahib Subidali.
Momin, Begum Hamida.
Rahman, Khan Bahadur Mukhlesur.
Rashid, Khan Bahadur Kazi Abdur.
Sarker, Rai Sahib Indu Bhusan.
Sen, Rai Sahib Jatindra Mohan.
Shamsuzzoha, Khan Bahadur M.
Singh Roy, Mr. Saileswar.
Sinha, Rai Bahadur Surendra Narayan.

Mr. PRESIDENT: The question before the House is: that clause 36 stand part of the Bill.

(The motion was agreed to.)

Mr. PRESIDENT: The House stands adjourned till 2-15 p.m. to-morrow.

Adjournment.

The Council then adjourned till 2-15 p.m. on Tuesday, the 16th January, 1940.

Members absent:

The following members were absent from the meeting held on the 15th January, 1940:—

(1) Rai Bahadur Keshab Chandra Banerjee.
(2) Mr. Moazzemali Chowdhury.
(3) Mr. Humayun Reza Chowdhury.
(4) Khan Bahadur Rezzakul Haider Chowdhury.
(5) Mr. Narendra Chandra Datta
(6) Khan Bahadur S. Fazal Ellahi.
(7) Khan Bahadur Alhaj Khwaja Muhammad Esmail.
(8) Alhaj Khan Bahadur Shaikh Muhammad Jan.
(9) Mr. H. G. G. Mackay.
(10) Rai Bahadur Satis Chandra Mukherji.
(11) Mr. E. C. Ormond.
(12) Rai Bahadur Radhica Bhusan Roy.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Tuesday, the 16th January, 1940, at 2-15 p.m., being the 26th day of the Third Session, pursuant to section 62 (2) (*a*) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Floods in Kandi Subdivision.

145. Khan Bahadur ATAUR RAHMAN: (*a*) Will the Hon'ble Minister in charge of the Communications and Works Department be pleased to state what is the total area affected by the floods in July last in Kandi subdivision?

(*b*) What are the causes of the flood?

(*c*) Does Government propose to make an enquiry and find out the real cause of the flood and take steps to remove them?

The Hon'ble Sir BIJOY PRASAD SINGH ROY (on behalf of the Hon'ble Maharaja Srischandra Nandy, of Cossimbazar): (*a*) About 150 square miles.

(*b*) and (*c*) There was abnormal rainfall in the catchment areas of the Brahmani, Dwarka and More. Investigations are proceeding with a view to ascertaining what action can be taken to minimise the damage which is, I fear, inevitable in such circumstances.

Presentation of the Sixth Report of the Committee of Privileges.

Khan Bahadur M. ABDUL KARIM: Sir, I beg to present the Sixth Report of the Committee of Privileges in connection with the editorial comments appearing in the "Ananda Bazar Patrika" and the "Hindusthan Standard" on the 5th May, 1939, casting reflections on the Chair.

Mr. HUMAYUN KABIR: Sir, in this connection, may I know what happened with regard to the Fifth Report of the Committee of

Privileges which was appointed to investigate into the affairs of the "Azad" in connection with certain remarks made about the absence of some members of this House?

Mr. PRESIDENT: That report was presented on the 14th of July last and it is now the duty of any member of the House to move any motion they like in connection with that report. That is the procedure.

Mr. HUMAYUN KABIR: Sir, may I then move that the report which was presented on the 14th of July last and the report which is presented to-day be adopted?

Mr. PRESIDENT: Motion moved: that the report of the Privilege Committee submitted on the 14th of July last and the report which has been submitted to-day be adopted.

Mr. KAMINI KUMAR DUTTA: As the matter concerns the privileges of this House, may I appeal that the report should be unanimously adopted?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Does the motion of Mr. Kabir refer to the old report or the one presented to-day?

Mr. PRESIDENT: The motion refers to both the reports. If the House so desires, these may be taken up separately.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, may I make a submission to that effect? The previous report not being here, it may be necessary for some of us to refresh our memory.

Mr. KAMINI KUMAR DUTTA: We remember it quite well.

Dr. RADHA KUMUD MOOKERJI: Sir, may we not take it that it will be unanimously passed?

Mr. PRESIDENT: The motion has not been put. I shall have to read it as some of the members have forgotten all about it.

The Fifth Report of the Committee of Privileges runs as follows:—

"We, the members of the Committee of Privileges appointed by the Bengal Legislative Council, have the honour to submit this our report on the motion referred to us by the Council at its meeting held on the 1st June, 1939, namely, that the two articles published in the issue of the "Azad" of the 30th May, 1939, which were placed before this House and contained expressions and statements concerning Khan Sahib Abdul Hamid Chowdhury, Khan Bahadur Rezzaqul Haider Chowdhury and ten other members of the Council.

The Committee sat on the 16th June, 10th, 12th and 13th July, 1939, to consider all aspects of the questions and also afforded Maulana Md. Akram Khan an opportunity of explaining his position in respect of the point at issue before the Committee. The Committee considered the second leader along with the report which appeared in the "Azad" of the 30th May. 1939, and also the second leader of the 31st May, 1939, to which attention of the Committee was drawn by Maulana Md. Akram Khan.

Maulana Md. Akram Khan stated that the word চাতুরীপূর্ণ used in the report of the 30th May was unhappy.

The Committee also considered the Official Report (Bengal Legislative Council Debates) containing the proceedings of the Council of the 1st June, 1939, in which Maulana Md. Akram Khan made a statement on the floor of the House that he could convince, if given an opportunity, that every letter of what had appeared in his paper was true. He said—

"আমি এই বিষয়টা Privilege Committeeতে দেবার প্রস্তাব সম্পূর্ণ রূপে সমর্থন কর্চ্ছি। আমার কাগজ সম্বন্ধে যে সমস্ত অন্যায় ও অসঙ্গত মন্তব্য করা হয়েছে, এবং বিশেষ করে অধ্যাপক হুমায়ুন কবীর যে সমস্ত মন্তব্য ক'রেছেন তাতে বুঝ্‌তে হয় যে তাঁরা বিচারের আগেই ফাঁসির হুকুম দিয়াছেন। মাননীয় সভাপতি মহাশয় আমাকে বাস্তবিকপক্ষে যদি Privilege Committeeতে সুযোগ দেওয়া হয়, তা'হলে আমি বুঝিয়ে দিতে পারি যে আমার কাগজে যা লেখা হ'য়েছে তা'র প্রত্যেকটি বর্ণ সত্য। এবং আমি এই পর্য্যন্ত ব'লতে পারি যে Privilege Committeeতে যা সিদ্ধান্ত হবে, তা অবনত মস্তকে মেনে নিতে আমি বাধ্য আছি। কিন্তু আমি ব'ল্‌তে চাই যে বিচারের আগেই দণ্ডদানের কোন রকম ব্যবস্থা,....."

The Committee is of opinion that a breach of privilege has been committed in respect of the report which appeared in the "Azad" of the 30th May, 1939, and this has been further enhanced by the remarks of the Editor which he made on the floor of the house on the 1st June, 1939.

The Committee is of opinion that the members of the Council have a special responsibility in maintaining the dignity and privileges of the House and any breach of them by a member by casting reflections or imputing motives to other members in relation to the business of the House is more to be deplored than such conduct by a non-member. The Committee, however, is of opinion that as this is the first occasion on which such a breach of privilege by a member of the House has been brought to the notice of the House, the requirements of the situation will be met by an expression of regret by the member concerned on the floor of the House."

This Report, I find, was signed by Mr. Hamidul Huq Chowdhury (Chairman), the Hon'ble Sir B. P. Singh Roy, Dr. Radha Kumud

Mookerji, Mr. E. C. Ormond, Khan Bahadur M. Abdul Karim, Khan Bahadur Ataur Rahman, Mr. Humayun Kabir, Begum Hamida Momin, Khan Sahib Abdul Hamid Chowdhury, Mr. Kader Baksh, Khan Bahadur M. Shamsuzzoha, Raja Bahadur Bhupendra Narayan Sinha, Rai Bahadur Keshab Chandra Banerjee and Mr. Ranajit Pal Chowdhury.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I am afraid that all the implications of the decision arrived at were not probably understood by some of the members who signed the report. Sir, may I move that the report of the Privilege Committee presented on the 14th of July last regarding the "Azad", newspaper be referred back to the Privilege Committee for reconsideration?

Mr. PRESIDENT: I forgot to mention that the signature of Mr. Ormond and Khan Bahadur Abdul Karim could not be obtained at that time because they were not present.

Amendment moved: that the report of the Privilege Committee presented on the 14th July last regarding the "Azad" newspaper be referred back to the Privilege Committee for reconsideration.

Mr. HUMAYUN KABIR: Sir, I beg to oppose this amendment on the following grounds. Whatever decision we should take with regard to the privileges of this House should be taken on grounds to which no objection might be made by any member of this House or anybody outside. The Committee of Privileges considered both these questions dispassionately and gave a great deal of time and attention to the consideration of all the issues involved. I do not think, therefore, that it lies in the mouth of a member of that Privileges Committee to come here and say that he signed that report without understanding the implications of what he was signing it for. I think, Sir, that such a confession on the part of a member of the Privileges Committee disqualifies him from taking any further part in any discussion relating to any matter which might arise out of that report, for if it be that after signing the report on a due consideration of everything and after three or four months, a member now comes and says, "I was not aware of what were the consequences of my signature to that report," who knows that day after to-morrow the same member will not come forward again and say, "I have signed the report but I do not understand what I have signed. I am so ill-informed and I am so ignorant, of all the implications of what is involved in the report, that I want to withdraw my signature, and I am not capable of understanding my own mind." Therefore, we can brush aside as irrelevant the arguments advanced by Sir Bijoy Prasad Singh Roy for the amendment which has been moved.

Now, Sir, let us come to the question of merits of the case. With regard to the report which appeared in the "Azad" on the 30th May and on the 1st of June the Committee gave a great deal of time. The Committee came to the conclusion after a good deal of discussion that so far as one editorial and one report was concerned, there was no ground for any objection from any member of this House. Newspapers should certainly have the right and the liberty to criticise freely the conduct or the decision of the members of this House, and the "Azad" had exercised that right, that freedom, which belongs to every paper in writing that editorial and in expressing its opinion. But with regard to the other item which was also brought before the notice of the members of this House, the Privileges Committee came to the conclusion that the terms which were used by the "Azad" were capable of an interpretation which imputed motives to the members of this House. One example might be suggested in this connection. I think, Begum Hamida Momin will bear me out when I say that she was nowhere in Bengal at the time and yet her name was put in amongst others who——

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, may I rise on a point of order? We are not, I think, discussing the recommendations of the Committee on their merits at this stage.

Mr. PRESIDENT: Both the motion and the amendment are before the House.

Mr. HUMAYUN KABIR: Sir, I think this shows further ignorance of procedure on the part of the Hon'ble Minister who just now interrupted me, for if he does not know that when a motion is under discussion before this House it can be discussed on its merits, I do not know when he will learn that.

However, to proceed, it was also the case of certain members who were not in Bengal at all, and their names were also included in the list of those who were absent in a deceitful manner. I do not know what exactly will be the translation of the word "চাতুরীপূর্ণ" Deceitful may perhaps be too strong. But if it is too strong and some milder word is used for "চাতুরীপূর্ণ" there is no doubt whatsoever that the suggestion cunning or deliberateness is implied in the use of the word "চাতুরীপূর্ণ" The same thing, Sir, applied with regard to the absence of Khan Bahadur Fazl Elahi. About him it was also said that he was absent in a "চাতুরীপূর্ণ" manner, and that it was in a deliberate manner that he wanted to be absent and that was why he was absent. That also applies with regard to the case of Khan Bahadur Kamaruddin Haider and several other members, whose names I now forget. With regard to Khan Bahadur Reazzakul Haider Chowdhury and also Khan

Sahib Abdul Hamid Chowdhury, the Privileges Committee came to the conclusion that the "Azad" in one report, not in all the reports, —because with regard to certain reports, the Privileges Committee came to the conclusion that the "Azad" was within its rights in criticising them in that manner,—in one report it certainly went beyond its right and it certainly went beyond what is properly allowed to any newspaper in criticising the conduct of the members of this House. Therefore the Privileges Committee came to the conclusion that there was a breach of the privileges of this House. This is a matter about which there should be no difference of opinion, and I think, Sir, it is significant that the objection to this motion has come from one who, after all, cannot be expected to be very careful about the privileges of this House. It is very significant, Sir, that no member of this House, no genuine, *bona fide*—what in the Bengali terminology is called a 16-anna member of this House, no such member has raised any objection whatsoever to this motion. It is one who is here only for certain specific purposes and only in order to perform certain specified things that has taken any objection to the adoption of this report of the Committee of Privileges of this House, which we can quite understand because he is not so concerned with the question of privileges of this House.

Now, Sir, I come to the subject raised in the case of the other two papers also. The Privileges Committee, after a great deal of discussion, has come to the decision that there has been a breach of the privileges of this House. Any remark which is made imputing motives to the President of this House is a reflection on the whole House. Therefore, Sir, even members who were not present at the time of the discussion of the Privileges Committee did not have any hesitation in supporting the report. I myself could not unfortunately attend the meeting at which this particular discussion took place and the Committee came to a decision that the remarks in the "Ananda Bazar Patrika" and the "Hindusthan Standard" were a reflection on the conduct of the Chair and therefore on the conduct of the House itself. I did not yet hesitate a moment in signing that report because any remark which goes against the conduct of the Chair and therefore by implication against the conduct of business in this House is a reflection on the whole House. I submit that the two cases are absolutely on all fours. In both cases, certain motives have been imputed to the members of this House. I have already said that I admit, that the papers have the right of fair criticism, free criticism, criticism without any bias, but that does not mean that newspapers should have the power of interpreting what are the motives, what is in the innermost mind of the members of this House. In both cases, in the case of "Azad" as well as in the case of "Ananda Bazar Patrika" and the "Hindusthan Standard", there have been imputations in this way. We need not go into the reason why motives were imputed and whether the imputation

was justified or not. Those are questions with which we are not concerned. The only question before the House is whether motives were imputed to members of this House or not. I submit that in both cases motives were imputed to the conduct of members of this House, and if motives are imputed to the conduct of the members of this House in the discharge of their duties in this House, it is a grave breach of the privileges of this House. I therefore submit that any attempt to differentiate between the two cases will only show particular political predilections or perhaps the hopelessness of the member concerned who has moved the amendment with regard to one particular part of my motion. But, Sir, it does not show any respect or any regard for the privileges of this House; still less does it show any just regard for looking at the question from a dispassionate point of view, from the point of view of the privileges and dignity of this House, from which all members of this House should look at this question. I am very happy, Sir, Maulana Akram Khan is here at the moment. I am constrained to remind him that when he spoke in this House on the last occasion, he made it absolutely clear that he would try to defend his position before the Privileges Committee, and if the Privileges Committee came to any decision he would accept that finding without any further demur. I think, Sir, that is the proper view which every member of this House ought to take and every member of this House ought to be careful about the dignity of this House. I hope, therefore, Sir, that all members of this House will turn down the amendment of Sir Bijoy Prasad Singh Roy with all the contumely that it deserves.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, at the outset I would assure the House and my honourable friend who has just spoken before me that though I am not, according to him, a *bona fide* member of this House or a 16-anna member of this House, I am as much anxious for the maintenance of the dignity, privilege and prestige of this House as any *bona fide* member of this august body.

Khan Bahadur NAZIRUDDIN AHMAD: In every possible way.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, in every possible way. So, I take strong exception to the point raised in this connection by Mr. Humayun Kabir. My only object in moving this motion is to give the Privileges Committee another chance to consider this question in a cooler atmosphere.

Mr. LALIT CHANDRA DAS: On a point of order, Sir. Can a member who has signed a report say that he has signed it without knowing it?

Mr. PRESIDENT: The Hon'ble Minister has said that the report should be referred back to the same Committee.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, Mr. Kabir assumes that he is infallible, but I venture to submit that there are others, humbler creatures, who are not equally infallible and who do not possess self-confidence to same extent as the learned professor. My motions, if accepted, will give the Committee an opportunity to consider the whole question in a cooler moment, and the editor of the paper that offended against the privileges of the House to explain his conduct in a better and calmer atmosphere. It is only to create, to offer, that opportunity that I have moved this motion, and I hope it will have the support of every one who is prepared to consider this question dispassionately and in a calm atmosphere.

Dr. RADHA KUMUD MOOKERJI: Sir, I am afraid I have to intervene for the present to uphold the privilege of the Committee of Privileges, which has somewhat been called into question. As a matter of parliamentary procedure, I should remind members here that the Committee of Privileges which the Legislative Council has set up enjoys the complete confidence of this House. It is representative of the different parties that make up this House. Ordinarily speaking, any proposal that comes from the Committee of Privileges and specially when it comes with the unanimous opinion of all the members forming the Committee of Privileges, I should think that such a proposal should be taken as merely a formal proposal to be accepted by the House *ipso facto* and unanimously. I do not like to go into the merits of the subject that has been disposed of very, very carefully in the course of several sittings by the Committee of Privileges, and so far as I remember, the Committee was very much influenced by the decisive opinion expressed by our honoured colleague Khan Bahadur Abdul Karim. I still remember that when I was myself unable to form a definite opinion on the matter, it was his legal acumen that enabled the Committee to record the decision that has been reached. (A VOICE: Is it not disclosing what took place in the Committee behind the doors?) Of course, I know I am not guilty of any disclosure of official secrets. But I just lay before the Council the way in which the Committee of Privileges conducted its business. It must not be assumed that the Committee failed to consider the various bearings on the question at issue. On the contrary, the Committee had very many sittings and the Committee showed every anxiety to do full justice to the many aspects of the situation created by the comments of the newspapers that have been found to offend against the privileges of this House. I, therefore, Sir, think that no purpose will be served by referring the matter back to the Committee of Privileges. On the contrary, I am inclined to think that such a procedure would amount to an expression of want of confidence in the Committee of Privileges on the ground that has been assumed that the Committee was not quite cognisant of some other facts that called for their consideration. I do not know what other new facts can possibly be considered by the

Committee, and no new material has also been given since then by the parties concerned which calls for a reconsideration or a review of the case. I hope that in explaining the position of the Committee of Privileges in this matter I shall have the support from Khan Bahadur Abdul Karim to whom I have referred. If I am wrong, I should only be too glad to be corrected. But I still maintain that the Committee's decision was mainly influenced by his considered judgment which was very valuable because of his own ingrained sense of justice and legal acumen.

Mr. KAMINI KUMAR DUTTA: Sir, I have already said that this is a matter which should be dispassionately considered, apart from any consideration of party allegiance. This is a matter concerning the privilege of the entire House, and I can only reiterate my appeal that we should judge this matter without any party bias, particularly when in connection with the reference concerning the "Azad", the forum was one selected by the Maulana Saheb himself who happens to be Editor of that paper. He offered in the open House to be bound by the award of that forum, and it is an ordinary dictum accepted all over the world that if I appoint my own arbitrator, the award is final and nobody questions that award. So, I would again appeal to the House to consider this whole matter dispassionately keeping our minds free from all other considerations, and I would also appeal to Maulana Saheb to consider that it raises one in the estimation of the world when one really expresses regret for anything which is found to be wrong by his comrades. As human beings we are liable to commit error, and one becomes greater when one admits, "I have made a mistake." It does not lower his position in the least. I again repeat that it is a dictum, it is a principle accepted all over the world that if I accept the forum, the award of the forum must also be accepted.

***Maulana MUHAMMAD AKRAM KHAN:** মাননীয় সভাপতি মহাশয়—আমি কামিনীবাবুর বক্তৃতার পরে মাত্র একটি কথা বোলতে চাই। আমি পুনঃ পুনঃ—এই House এ বোলেছি এবং committeeর সামনেও বোলেছি যে "চাতুরিপূর্ণ" কথাটা একটা report এর head line এ ব্যবহৃত হোয়েছিল। পরদিন সম্পাদকীয় প্রবন্ধে অতি স্পষ্ট ভাষায় তার প্রতিবাদ এবং প্রত্যাহার করা হোয়েছিল। এই প্রতিবাদ এবং প্রত্যাহার করার কথাটা আমার মনে হয় committeeর reportএ উল্লেখ করা হয় নাই।

Raja Bahadur BHUPENDRA NARAYAN SINHA, of Nashipur: Mr. President, Sir, I would only have been too glad to support the motion of my honourable friend, the Hon'ble Sir Bijoy Prasad Singh Roy, had it not been in connection with a report of the Privilege Committee. If this motion had related to some other body, I think his proposal would have been accepted by all. (Cries of "Hear, hear" from Congress benches.)

* An authorised English translation of this Bengali speech will be found in the Appendix.

Sir, the Privilege Committee, as my honourable friend Dr. Mookerji has observed, enjoys the confidence of this House, because it consists of the representatives of different groups and leaders of different parties in this House. Further, it was on the suggestion of my friends, the Maulana Saheb, that the matter was referred to the Privilege Committee. The House had accepted his proposal. As a member of the Privilege Committee, I can now say that we thought over the matter very carefully. We sat together for days and days and also gave the Maulana Saheb enough opportunity to say what he had to say. So, you will see, Sir, that the Committee's report represents our deliberate and considered judgment on the issue that was referred to it.

Now, if the report be rejected in this manner, it would be insulting the Committee in a way, to say nothing of the waste of time involved in the deliberations of the Committee. In the circumstances, I would request that the matter be finally settled here and now. I think a word of regret from the Maulana Saheb will meet the requirements of the situation.

Mr. LALIT CHANDRA DAS: Sir, may I say something on this motion?

Mr. PRESIDENT: Yes.

Mr. LALIT CHANDRA DAS: Sir, I had no intention of speaking on this matter, but after hearing Maulana Akram Khan I feel that I should add something to the debate.

Maulana Akram Khan has stated that he drew the attention of members of the Privilege Committee to the fact that he retracted the word "চাতুরীপূর্ণ" and also gave a sort of an explanation in the next issue of his paper. Now, Sir, it appears that the attention of the Privilege Committee was drawn to it and that in spite of all this the Privilege Committee came to the definite conclusion that he should be called upon to make an apology. When after hearing, the Maulana Saheb and in spite of that explanation appearing in his paper next day, the Privilege Committee unanimously came to the definite conclusion that he ought to apologise, I think the honourable member should stick to his own undertaking given on the floor of this House, namely, that he would stand by the award of the Privilege Committee. The award of the Privilege Committee having been given, there is now nothing to call for a review.

Mr. PRESIDENT: Order, order. I shall put the two reports to vote separately. There is an amendment to Mr. Kabir's motion regarding the Fifth Report of the Committee which was presented on the 14th of July, 1939, by the Hon'ble Sir Bijoy Prasad Singh Roy. I shall now put it to the House.

The question before the House is: that the report of the Privilege Committee presented on the 14th July last regarding the "Azad" newspaper be referred back to the Privilege Committee for reconsideration.

The House then divided with the following result:—

AYES—18.

Ahmad, Khan Bahadur Naziruddin.
Ahmed, Mr. Meshahuddin.
Ahmed, Mr. Nur.
Baksh, Mr. Kader.
Barua, Dr. Arabinda.
Chowdhury, Mr. Khorshed Alam.
Chowdhury, Mr. Hamidul Huq.
Ellahi, Khan Bahadur S. Fazal.
Haider, Nawabzada Kamruddin
Hosain, Khan Bahadur Saiyed Mdazzamuddin.
Hossain, Mr. Latafat.
Hossain, Mr. Mohamed.
Huq, Khan Bahadur Syed Muhammad Ghaziul.
Ibrahim, Khan Bahadur Maulvi Mohammad.
Khan, Khan Bahadur Muhammad Asaf.
Molla, Khan Sahib Subidali.
Rahman, Khan Bahadur Mukhlesur.
Singh Roy, Mr. Saileswar.

NOES—13.

Bose, Rai Bahadur Manmatha Nath.
Chakraverti, Mr. Shrish Chandra.
Chowdhury, Khan Sahib Abdul Hamid.
Das, Mr. Lalit Chandra.
Dutta, Mr. Kamini Kumar.
Kabir, Mr. Humayun.
Maitra, Rai Bahadur Brojendra Mohan.
Momin, Begum Hamida.
Mookerji, Dr. Radha Kumud.
Pal Choudhury, Mr. Ranajit.
Roy, Mr. Amulya Dhone.
Sarker, Rai Sahib Indu Bhusan.
Sinha, Rai Bahadur Surendra Narayan.

Mr. PRESIDENT: Order, order. The House divided.

The "Ayes" being 18 and the "Noes" 13, the amendment is carried.

Mr. PRESIDENT: Now, the question before the House is that the Sixth Report of the Privilege Committee presented to-day regarding editorial comments that had appeared in the "Ananda Bazar Patrika" and the "Hindusthan Standard," be adopted.

Dr. RADHA KUMUD MOOKERJI: Sir, I have a proposal to make. I beg to move an amendment that this matter may also be recommitted to the Committee of Privileges, because there may be new facts which may be forthcoming in the meanwhile.

Mr. PRESIDENT: Amendment moved: that the Sixth Report of the Privilege Committee presented to-day regarding the editorial comments that had appeared in the "Ananda Bazar Patrika" and the "Hindusthan Standard" on the 5th of May, 1939, be referred back to the Committee of Privileges for further consideration.

The question before the House is that the Sixth Report of the Privilege Committee presented to-day regarding the editorial comments that had appeared in the "Ananda Bazar Patrika" and the "Hindusthan Standard" on the 5th of May, 1939, be referred back to the Committee of Privileges for further consideration.

(The motion was agreed to.)

Bengal Money-lenders Bill, 1939.

Mr. PRESIDENT: The House will now resume further consideration of the Bengal Money-lenders Bill.

Clause 37.

Clause 37 stand part of the Bill.

Mr. AMULYADHONE RAY: Sir, I beg in clause 37 of the Bill, after sub-clause (*2*), the following new sub-clause be inserted, namely:—

"(*2A*) A borrower may make an application at any time before the Court makes a declaration under sub-section (*2*) requesting that the amounts referred to in clauses (*a*) and (*b*) of that sub-section shall be payable in such instalments in accordance with the provisions of this Act as the Court may in its discretion direct. Such application shall be accompanied by a fee of one rupee and the Court shall make an order for payment by instalment on such application."

Sir, the Courts have been empowered to grant instalments for payment of debts. But no borrower will be given an opportunity of making an application for instalments at all when the lender brings a suit in a court. Therefore, in order to give him an opportunity and in order to provide an opportunity for making an application, I have moved this amendment. Sir, there are many borrowers who are unable to pay their debts at one and the same time. Therefore, if this amendment is carried, he will be at liberty to make an application to the Court at any time he likes and if this amendment be carried, he may be allowed instalments by the Court. That is why I have moved this amendment, Sir.

Mr. PRESIDENT: Amendment moved: that in clause 37 of the Bill, after sub-clause (*2*), the following new sub-clause be inserted, namely:—

"(*2A*) A borrower may make an application at any time before the Court makes a declaration under sub-section (*2*) requesting that the amounts referred to in clauses (*a*) and (*b*) of that sub-section shall be payable in such instalments in accordance with the provisions of this Act as the Court may in its discretion direct. Such application shall be accompanied by a fee of one rupee and the Court shall make an order for payment by instalment on such application."

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose the amendment. If my friend looks to the amendment of Khan Bahadur Naziruddin Ahmad to clause 35, he will find that it

covers such cases. Under section 35, a borrower has been allowed to go to the Court and get all the advantages he can have in respect of instalments. When that has been accepted, there is no necessity for this amendment.

Mr. PRESIDENT: The question before the House is: that in clause 37 of the Bill, after sub-clause (2), the following new sub-clause be inserted, namely:—

"(2A) A borrower may make an application at any time before the Court makes a declaration under sub-section (2) requesting that the amounts referred to in clauses (a) and (b) of that sub-section shall be payable in such instalments in accordance with the provisions of this Act as the Court may in its discretion direct. Such application shall be accompanied by a fee of one rupee and the Court shall make an order for payment by instalment on such application."

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 37 stand part of the Bill.

(The motion was agreed to.)

Clause 38.

Mr. PRESIDENT: Clause 38 stand part of the Bill.

Khan Bahadur NAZIRUDDIN AHMAD: I shall not move this amendment No. 695, but I shall move, with your permission, Sir, the revised amendment No. 695A. Sir, I beg to move that after the existing proviso to sub-clause (2) of clause 38 of the Bill, the following new proviso be inserted, namely:—

"Provided also that, if the Court is satisfied that the lender has, without reasonable excuse, refused to accept any sum sent to him by postal money-order by the borrower in respect of the loan, it may direct the payment to the borrower from the money so deposited or otherwise of such sum as damages and costs as it thinks fit."

Sir, it has come within our experience that money-order by a borrower is sometimes refused by a creditor and if it is done wrongly, there is no provision anywhere in the Bill by which any punishment can be inflicted on the lender. The Bengal Tenancy Act thinks of certain penalties. This amendment is a counterpart of the provision in the Bengal Tenancy Act to induce him not to refuse it and put the debtor to any harassment.

Mr. PRESIDENT: Amendment moved: that after the existing proviso to sub-clause (*2*) of clause 38 of the Bill, the following new proviso, be inserted, namely:—

"Provided also that, if the Court is satisfied that the lender has, without reasonable excuse, refused to accept any sum sent to him by postal money order by the borrower in respect of the loan, it may direct the payment to the borrower from the money so deposited or otherwise of such sum as damages and costs as it thinks fit."

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that after the existing proviso to sub-clause (*2*) of clause 38 of the Bill, the following new proviso, be inserted, namely:—

"Provided also that, if the Court is satisfied that the lender has, without reasonable excuse, refused to accept any sum sent to him by postal money order by the borrower in respect of the loan, it may direct the payment to the borrower from the money so deposited or otherwise of such sum as damages and costs as it thinks fit."

(The amendment was agreed to.)

The question before the House is: that clause 38, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 39.

Mr. PRESIDENT: Clause 39 stand part of the Bill.

Mr. MESBAHUDDIN AHMAD: Sir, I beg to move that in sub-clause (*1*) of clause 39 of the Bill, for the words "blanks are left to be filled in" appearing in the last line, the words "any entry is left blank for completion" be substituted.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) of clause 39 of the Bill, for the words "blanks are left to be filled in" appearing in the last line, the words "any entry is left blank for completion" be substituted?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*) of clause 39 of the Bill, for the words "blanks are left to be filled in" appearing in the last line, the words "any entry is left blank for completion" be substituted.

(The amendment was agreed to.)

The question before the House is: that clause 39, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 40.

Mr. PRESIDENT: Clause 40 stand part of the Bill.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move a short notice amendment for deleting this clause altogether. Therefore, this should come first.

Mr. PRESIDENT: You can say "no" when the clause is put.

Khan Bahadur NAZIRUDDIN AHMAD: But I want to show the reason for deletion of this clause and so I want to move this amendment now.

Mr. PRESIDENT: All right. You may move it.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move that clause 40 of the Bill be omitted. Clause 40 is no doubt conceived in a very generous spirit but possibly as a result of hasty drafting or for other reasons, the effect has been rather unhappy. As the clause stands its effect will be that if a man borrows money on mortgage and executes a mortgage bond and if the lender advances the money beforehand to serve him in an emergency and wants to have the bond registered, then, on account of the wording of the clause, the Sub-Registrar will refuse to register the bond on the ground that the money was not paid in his presence. The borrower will not get the money when he actually needs it. Instead of serving as a beneficial provision, it would operate to the detriment of the debtor. Further, some money-lenders,—those who are respectable and who have current accounts in some banks,—might prefer to pay by cheque as a matter of precaution. But such

payment would be absolutely futile as the clause requires cash payment. There is, further, the risk to the money-lender in carrying the amount to the Registration Office and there is also the risk to the borrower in carrying the amount back to his house and the difficulty would be further enhanced if any of the parties is a minor or a "*purdanashin*" lady. I think in the circumstances the clause will operate as a handicap to borrowers and should be deleted. What was intended to be incorporated in the clause seems to be that if the money is paid at the time of the registration, the Sub-Registrar shall make a suitable endorsement. But we know that, under the existing law, if any money is paid, it is, as a matter of course, noted. The clause, as it stands, does not come up to that standard, and rather negatives it. It will practically prevent borrowing money on mortgage and will operate against the interests of borrowers in times of real need. I, therefore, submit that the clause should be omitted. This view has been accepted by the Hon'ble Ministers and it is at their suggestion that I move this amendment.

Mr. PRESIDENT: Amendment moved: that clause 40 of the Bill be omitted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: I would like to say that my friend Khan Bahadur Naziruddin Ahmad has made the thing very clear. So, I accept his amendment for the deletion of this clause.

Mr. PRESIDENT: The question before the House is: that clause 40 of the Bill be omitted.

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 40 of the Bill be omitted.

(The motion was agreed to.)

Clause 41.

Mr. PRESIDENT: Clause 41 stand part of the Bill.

The question before the House is: that clause 41 stand part of the Bill.

(The motion was agreed to.)

Clause 42.

Mr. PRESIDENT: Clause 42 stand part of the Bill.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move that in sub-clause (*1*) of clause 42 of the Bill,—

(*i*) after the word "money-lender" in line 1, the words "or any servant or agent of, or any person responsible for the management of the money-lending business of, a money-lender" be inserted: and

(*ii*) that after the word "money-lender" in line 4, the words "or such servant, agent or person" be inserted.

Sir, this is a necessary safeguard where the money-lenders would be inclined to cause breach of the law through a servant. Without this amendment, they would go scot-free. That is why I have moved it as a formal amendment.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) of clause 42 of the Bill,—

(*i*) after the word "money-lender" in line 1, the words "or any servant or agent of, or any person responsible for the management of the money-lending business of, a money-lender" be inserted; and

(*ii*) that after the word "money-lender" in line 4, the words "or such servant, agent or person" be inserted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is that in sub-clause (*1*) of clause 42 of the Bill,—

(*i*) after the word "money-lender" in line 1, the words "or any servant or agent of, or any person responsible for the management of the money-lending business of, a money-lender" be inserted, and

(*ii*) that after the word "money-lender" in line 4, the words "or such servant, agent or person" be inserted.

(The amendment was agreed to.)

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I beg to move that in sub-clause (*1*) (*b*) of clause 42 of the Bill, after the word "Hindu" in line 1, the word "joint" be inserted.

Sir, by adding the word "joint", it will be more appropriate as used in legal terms and it would be made more clear. That is why I have moved this amendment.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) (*b*) of clause 42 of the Bill after the word "Hindu" in line 1, the word "joint" be inserted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, this seems to be a very small thing. So, I accept it.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*) (*b*) of clause 42 of the Bill, after the word "Hindu" in line 1, the word "joint" be inserted.

(The amendment was agreed to.)

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Sir, I beg to move that in sub-clause (*1*) of clause 42 of the Bill, in paragraph (*ii*), for the words, "with rigorous imprisonment which may extend to three months and shall also be liable to fine" in lines 1 to 3, the words "with fine which may extend to one thousand rupees," be substituted.

Sir, the object of my amendment is that there should be no ill-treatment by way of penalty. Clause 42 says that when any money-lender knowingly and wilfully commits, authorises or permits any default in complying with, or any contravention of, any provision of this Act, he shall be punishable on conviction,—

(*i*) for the first offence, with fine which may extend to two hundred rupees,

(*ii*) for the second offence, with fine which may extend to five hundred rupees, and,

(*iii*) for any subsequent offence, with rigorous imprisonment which may extend to three months and also with fine.

Sir, my contention is that instead of rigorous imprisonment, his fine may extend to Rs. 1,000 only. I think, this is most reasonable.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) of clause 42 of the Bill, in paragraph (*iii*), for the words "with rigorous imprisonment which may extend to three months and shall also be liable to fine" in lines 1 to 3, the words "with fine which may extend to one thousand rupees" be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, this is one of the most substantial clauses of the Bill and I am sorry I cannot agree to its alteration. So, I am bound to oppose it.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*) of clause 42 of the Bill, in paragraph (*iii*), for the words, "with rigorous imprisonment which may extend to three months and shall also be liable to fine" in lines 1 to 3, the words "with fine which may extend to one thousand rupees" be substituted.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 42, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 43.

Mr. PRESIDENT: Clause 43 stand part of the Bill.

Mr. MESBAHUDDIN AHMED: Sir, I beg to move that in clause 43 of the Bill, after the word "Crown" in line 2, the words "in India" be inserted.

Mr. PRESIDENT: Amendment moved: that in clause 43 of the Bill, after the word "Crown" in line 2, the words "in India" be inserted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that in clause 43 of the Bill, after the word "Crown" in line 2, the words "in India" be inserted.

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is that clause 43, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 44.

Mr. PRESIDENT: Clause 44 stand part of the Bill.

Mr. MESBAHUDDIN AHMED: Sir, I beg to move that in sub-clause (*2*) of clause 44 of the Bill, for the word "provision" in line 2, the word "power" be substituted.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*2*) of clause 44 of the Bill, for the word "provision" in line 2, the word "power" be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*2*) of clause 44 of the Bill, for the word "provision" in line 2, the word "power" be substituted.

(The amendment was agreed to.)

Mr. MESBAHUDDIN AHMED: Sir, I beg to move that in sub-clause (*2*) of clause 44 of the Bill, in paragraph (*b*), after the word "over" wherever it occurs, the word "the" be omitted.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*2*) of clause 44 of the Bill, in paragraph (*b*), after the word "over" wherever it occurs, the word "the" be omitted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*2*) of clause 44 of the Bill, in paragraph (*b*), after the word "over" wherever it occurs, the word "the" be omitted.

(The amendment was agreed to.)

Mr. PRESIDENT: The question befo... as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 45.

Mr. PRESIDENT: Clause 45 stand part of the Bill

The question before the House is that clause 45 stand part of the Bill.

(The motion was agreed to.)

Mr. PRESIDENT: Amendments on the Schedule will be taken up after all the clauses are over. So we can go back to clause 2 now.

Clause 2.

Mr. PRESIDENT: Clause 2 stand part of the Bill.

Mr. MESBAHUDDIN AHMED: Sir, instead of moving amendment No. 4, I would like to move the amendment that stands in my name in the Late List II.

Sir, I beg to move that at the end of sub-clause (*2*) of clause 2 of the Bill, the words "including a successor-in-interest or surety" be added.

Mr. PRESIDENT: Amendment moved: that at the end of sub-clause (*2*) of clause 2 of the Bill, the words "including a successor-in-interest or surety" be added.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that at the end of sub-clause (*2*) of clause 2 of the Bill, the words "including a successor-in-interest or surety" be added.

(The amendment was agreed to.)

Rai SURENDRA NARAYAN SINHA BAHADUR: Sir, I beg to move that in sub-clause (*5*) of clause 2 of the Bill——

Mr. PRESIDENT: Order, order. These amendments all refer to Company and we have found out that the word does not occur in the Bill. So, it is not necessary, as the whole sub-clause (*5*) is proposed to be omitted by an amendment of Mr. Mesbahuddin Ahmed.

Mr. MESBAHUDDIN AHMED: Sir, I beg to move that sub-clause (*5*) of clause 2 of the Bill be omitted.

Mr. PRESIDENT: Amendment moved: that sub-clause (5) of clause 2 of the Bill be omitted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that sub-clause (5) of clause 2 of the Bill be omitted.

(The amendment was agreed to.)

Khan Bahadur NAZIRUDDIN AHMAD: I do not want to move the amendment No. 35 standing in my name.

Mr. PRESIDENT: You have already moved it. Do you ask the permission of the House to withdraw it?

Khan Bahadur NAZIRUDDIN AHMAD: Yes, Sir. On reconsideration, I think that this amendment should not be pressed. So, I ask the leave of the House to withdraw my amendment.

Mr. PRESIDENT: Is it the pleasure of the House to permit Khan Bahadur Naziruddin Ahmad to withdraw his amendment, viz., that in sub-clause (9) of clause 2 of the Bill for the words "any sum" appearing in line 1, the words "anything whether in money or in kind" be substituted.

(The amendment was, by leave of the House, withdrawn.)

Mr. LALIT CHANDRA DAS: I beg to move the amendment No. 37 standing in my name.

Mr. PRESIDENT: The amendment has been moved. It is now only to be considered.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose it.

Mr. PRESIDENT: The question before the House is: that in sub-clause (9) of clause 2 of the Bill, after the word "sum" in line 1, the words "whether in money or in kind" be inserted; and the words "by whatsoever name called" appearing in lines 1 and 2 be omitted.

(The amendment was negatived.)

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: Sir, I beg to move that in sub-clause (*13*) of clause 2 of the Bill for the word "any" appearing in line 3, the following be substituted, namely:—

"Money loans repayable in crops or any other commodity according to advance purchase system and crop loan repayable in money according to credit sale system or any other."

Sir, my object in moving this amendment is to guard against the evasion of the provisions of this Act by money-lenders who lend money in lieu of crops or lend crops in lieu of money to be repayable in money under the garb of advance purchase or credit sale system. Sir, what a havoc this system is doing in our country will be apparent on a reference to the observations of the Bengal Banking Enquiry Committee Report of 1929-30. The interests on loans in kind are taken in such a way that the prevailing interest comes to 300 per cent. In paragraph 416 of their Report, the Banking Enquiry Committee say:—

"When the interest is levied in kind, the rates are much higher. The ordinary rate of interest on paddy loan is 50 per cent., though in some places 25 per cent. and in others 100 per cent. is charged. As these loans are repayable at the next harvest, the period is often less than a year and the rate per annum in most cases is much greater. We have been told that the prevailing rate of interest in the Serajganj subdivision is 300 per cent."

Then, as regards paddy loan, we find some examples cited. On pages 70 and 71 of their Report I find the following:—

"It appears from a document printed in Appendix IX which was tendered as evidence in Small Cause Court suit No. 705 of 1928 in the district of Mymensingh, that a loan of Rs. 30 was granted on 2nd Jaistha 1334 B.S. requiring repayment by 1st Magh of the same year (*i.e.*, 8 months later) by means of 30 maunds of paddy, having a market value of not less than Rs. 90. Apart from the necessity for food and seeds which makes borrowing on such unfair terms possible, the agriculturist has frequently to borrow for the hire of labourers during the cultivation season, specially for jute, which requires careful and repeated weeding. In fact, the *dadan* or advance system in the case of jute is required as much by the necessity of the *bepari* to procure a sufficient quantity of jute, as by the cultivator for weeding and washing the fibre."

Sir, I will refer to another point and then make my comments. As regards the effect of borrowing on disposal of produce, they say:—

"The effect of borrowing on the disposal of produce is always detrimental. The borrower, whether he has taken a *dadan* or not, is virtually bound to sell his produce to the creditor. This is almost always an express or tacit condition of a loan when the creditor is a trader.

The price at which the creditor buys is also less than the market price. The producer thus loses not only by the low selling rate but also by the heavy interest. Even when the creditor is not a trader and does not want to buy the produce, the pressure he puts on the debtor immediately after the harvest is very heavy, for he knows that if the debtor does not pay after selling his produce, it will not be possible for him to pay till after the next harvest. The effect of this pressure is so great that the borrower is compelled to dispose of his harvest as quickly as he can."

From the extracts I have quoted, it will appear what a havoc this system of loan is doing in the country in the mufassal areas, specially to the agriculturists. Ordinarily, these are really loans, but I apprehend in the garb of advance purchase, loans will be given by money-lenders. When they find no loophole for giving out money loans in the ordinary way, what they will do is, they will take a deed in writing from the borrower that he is taking Rs. 10 in advance for selling him 10 maunds of paddy during the paddy seasin six months hence when he knows that the price of paddy will be about Rs. 2 per maund. Thus, he will be making more than 150 per cent. interest. Our apprehensions are that this system will increase and will be very much detrimental to the interests of the agriculturists. This will practically defeat the very object of this Bill, if provisions be not made to bring this kind of loan under the provisions of this Act. With this object in view, I have moved this amendment so that these loans—which are really not commercial transactions but money loans repayable in crops or any other commodity according to advance purchase system and crop loan repayable in money according to credit sale system or any other—may come under the provisions of this Act. I hope that it will be accepted by the House.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, in view of the amendment to clause 32 of the Bill and in view of the fact that Government are advised that this amendment is not necessary, I am unable to accept the amendment. But if in future any difficulties due to the evasion of the provisions of this Bill arise in connection with either advance purchase or credit sale, Government will be prepared to bring in an amending Bill. In view of this assurance, I would request my friend to withdraw his amendment.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: May I enquire from the Hon'ble Minister whether the provisions of the Bill will apply to this kind of loan?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: We are not prepared, really speaking, to stop any borrowers from undertaking credit sales which are in substance not loans but rather forward

purchases by traders. But, if we find that in future money-lenders are taking undue advantage of the absence of this provision which my friend wants to incorporate, we will bring in an amending Bill to incorporate what my friend has just asked us to do. I am prepared to go even a little further. If any communique is necessary for the information of the general public, we will be very glad to issue a communique to that effect. I think this will satisfy my friend and he will withdraw his amendment.

Khan Bahadur SAIYED MUAZZAMUDDIN HOSAIN: In view of the assurance given by the Hon'ble Minister, I ask for the leave of the House to withdraw my amendment.

Mr. PRESIDENT: Is it the pleasure of the House to grant the honourable member leave to withdraw his amendment?

(The amendment was, then, by leave of the House, withdrawn.)

Mr. PRESIDENT: Amendment No. 61 is now before the House.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose the motion.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*13*) (*d*) of clause 2 of the Bill, after the word "loan" in line 1, the words "of rupees five thousand or more" be inserted.

(The amendment was negatived.)

Mr. KAMINI KUMAR DUTTA: Sir, I beg to move that in clause 2 of the Bill, paragraph (*i*) of sub-clause (*13*) (*d*) be omitted.

Sir, sub-clause (*13*) contains the definition of loans which would come within the purview of this Bill. But in sub-clause (*d*) and in other sub-clauses, exception has been made in respect of some transactions which would not be considered to be loans as affected by the operation of this Bill; and in sub-clause (*i*) of sub-clause (*d*), a distinction has been made even between the classes of creditors. It appears that the object of this Bill is to bring the banks under the operation of this Bill, but at the same time there is an exemption in favour of banks which we find in sub-clause (*d*) (*i*), *i.e.*, scheduled banks and also banks which may be declared to be notified under section 3. Sir, I move my amendment with all seriousness for the consideration of the party in power who are anxious to have this Bill passed into law, whether it will really be for the good of the country to make a distinction between one class of creditors and another class of creditors.

By this exclusion, scheduled banks and the banks to be notified hereafter are contemplated to be excluded from the operation of this law. I seriously think that it would prejudicially affect the economic structure of the country. Practically, it will be a ban on other banks and the resources of other banks will be dried up. An invidious distinction has been made between one class of banks which is fortunate to call itself a scheduled bank and other classes of banks which do not come within the category of that class. There seems to be no reason behind this rule. If it is said that scheduled banks and the banks which are contemplated to be notified are banks which do not really deal in ordinary money-lending but deal in commercial transactions——

Mr. AMULYADHONE ROY: On a point of order, Sir. If this amendment is not carried, what will happen to the other amendment, namely, the one relating to co-operative societies, insurance societies, etc., because in sub-clause (*13*) (*d*) all these are also included.

Mr. PRESIDENT: You can move the other amendment. There will be no difficulty.

Mr. KAMINI KUMAR DUTTA: There is an altogether separate amendment for co-operative societies.

So, Sir, as I was laying before the House, this invidious distinction ought not to be made between one class of credit institutions and another class of credit institutions, as it will very seriously affect the future of all other banks. Capital will naturally flow to those banks which have been favoured and it will really be killing the other banks. Now, the principle underlying this exclusion of a few banks is that the fortunate scheduled banks and those would-be fortunate notified banks—they do not deal in money-lending but deal in commercial loans. In that case, Sir, I would say that this exclusion is not required, because "commercial loan" has altogether been excluded from the operation of this Bill. Now, if instead of dealing with commercial loans these scheduled banks and the other would-be notified banks deal in ordinary money-lending, why should they be kept free from the rules and restrictions laid down under this Bill? Why should they be free from the rules as to the rate of interest and from other facilities given to the debtors? Why should the debtors who happen to be in the unfortunate position of being the debtors of the scheduled banks and the would-be notified banks be placed in that predicament? Why should they be deprived of the rights which would be extended to the debtors of other banks? By this clause, Sir, not only special favour has been shown to one class of credit institutions but, on the other hand, the rights of the debtors to relief which appears to be the object of this Bill has been taken away from the debtors who happen to be the debtors of a particular class of credit institutions.

So, I would very seriously urge whether this exception ought to find a place in the Bill at all. There does not seem to be any rule—any equity—behind this enactment. If all banks were excluded, I could understand that there was some reason behind it, namely, that banks do not ordinarily deal in money-lending, they deal in transactions concerned with trade and commerce, and they are institutions strictly under the control of a public authority. But as banks have been included within the operation of this Bill, there seems to be no reason why a particular class of banks should be excluded from the operation of this Bill. So, I again urge that this sort of exclusion in favour of a few and particular class of credit institutions ought not to find a place in a Bill of which the object is to give redress to the debtors.

Mr. PRESIDENT: Amendment moved: that in clause 2 of the Bill, paragraph (*i*) of sub-clause (*13*) (*d*) be omitted.

Dr. RADHA KUMUD MOOKERJI: Sir, I rise to support the amendment which has just now been so ably moved by the Leader of the Opposition.

I am afraid, Sir, that some of the legislative measures for which the present Government has made itself—I should say notorious—some of their measures are most unprincipled. This piece of legislation, in particular, is based on inconsistency and want of fidelity to any principle. When it suits the framers of this Bill, they will be very eloquent about the rights of the depressed debtors and also they will stand up very valiantly for the rights of the down-trodden masses. They are always very, very eloquent in their defence of the rights of the weak as against the strong, the privileges of the agriculturists as against those of the capitalists, but I am afraid that this particular paragraph is totally inspired by capitalists influence. Here Government is entirely influenced by its great regard for the considerations of a particular class of capitalists. There is absolutely no reason for making this invidious distinction between the richer banks and the small poorer rural banks that have been serving the people in the rural areas in their own way. Government has absolute right to control money-lending, but Government must know, as has already been proved in the course of the last debate, that no bank can exist without performing this function of money-lending. So the question is that Government is out only to control money-lending in a particular sphere and to leave unrestricted the exercise of the wholesome pursuit of money-lending by banks which should be above this kind of restriction. For after all these richer banks, as we have been told, generally engaged themselves in short-term loans, in exchange business, in discounting of bills and all these. Now, these are strictly speaking

commercial transactions, and therefore they are already outside the scope of this particular Bill to a very large extent. Now, the framers of the Bill, while they are very anxious to stand up for the interests of the down-trodden debtor class of the country, should also know that after all even the debtor class requires banking facilities. Now a measure of this kind will really inflict a permanent injury upon the growth of small banking and rural banking in the country. That will not really serve the true interests of the country. We already know the capacity of this Government and especially of the great department of co-operation of this Government. We already know the very limited capacity of this Government in meeting the requirements of finance in rural areas. The business of agriculture itself requires continuous supply of short crop loans. Even agriculturists stand in great need of short-term loans. So, it cannot be pretended that banks of the future which will have to move with the time—these small banks of the rural areas will not be able to enjoy full liberty in this most necessary economic pursuit of lending money for short-terms on the basis of crops So, my charge against Government is that they have been very, very inconsistent and they are showing signs that they are always—whenever it is convenient to them or perhaps when they cannot help it—they are always succumbing to the influence of the capitalists of the city. Of late we have been finding signs of this kind of surrender to capitalists. Now, there is absolutely no earthly reason why one class of banks that do not require protection because they are already outside the scope of this Bill as they are always, as has been stated already, engaged in commercial transactions—why those commercial banks which are outside the ambit of this measure should be singled out for special exemption, whereas those banks which are engaged in money-lending on proper terms, especially in the shape of short-term crop loans in rural areas, should not be so excluded. I do not see any reason why by legislation it is proposed to hamper the healthy growth and free growth of these rural banks in those areas where rural credit must be cheaply supplied. I, therefore, once again plead that Government should show consistency of principle and should stand up wholeheartedly for the interests of the masses in all their bearings by not making any kind of exemption for banks because such exemption does not rest on any kind of reason at all. Indeed, I cannot conceive of any reason for which these bigger banks which can very well take care of themselves—why these bigger banks are being protected. (Mr. AMULYADHONE ROY: You do not understand it!) No, I do not understand it, because I am an academic man; I merely dabble in politics. But I want to find some consistency and reason in politics. I do not see any reason why this unwarranted protection is being offered to the scheduled banks, much of whose business lies outside the sphere of this legislation. So, why brag about this exemption, this unwanted protection and why at the same time create

a kind of suspicion in the minds of the people that the Government are surrendering to the influence of the rich banks of the city and are absolutely unmindful of the services that are being rendered by the small banks, which serve the rural population so well. Of course, you have got many provisions by which you have taken the power to control money-lending, whether money-lending is done by Corporations or by private persons or by partnerships. You have now got within your scope the control of all kinds of money-lending in the country and therefore I should think that you might offer a fair field and no favour and take your stand boldly upon the ground of justice and reason and say that so far as money-lending is concerned, it does not matter whether money-lending is done by one class of banks or another class, so that both urban banks and rural banks will be entitled to the same kind of treatment and there should not be any kind of discrimination in legislation against a particular class of banks that are very much needed in rural areas. I therefore hope, although I am hoping against hope, that the ears of the Minister in charge would not be sealed against the voice of reason and justice which I am raising on behalf of the dumb rural millions of the countryside who require all possible avenues for the supply of credit to them on approved terms, or if you would like to say so, on the terms you have so amply laid down everywhere in the numerous clauses of the Bill. I therefore make once again my appeal, and I hope my appeal will not fall on deaf ears. Let the supporters of the Government also triumphantly stand up for the interests of the masses and let them not betray this kind of inconsistency in surrendering to the influence of the interests of capital and of the city.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, my friend Mr. Kamini Kumar Dutta has raised a very important point and the Deputy Leader of the Congress Party has also raised the same point. This point, from the financial point of view, is a very difficult one and I know, —as a matter of fact it has come to my notice, —that where these scheduled banks are actually operating in the mufassil, they are extending their business and the non-scheduled banks are practically gradually contracting. Although this Bill has not been passed into law, from the very fact that some of the banks have been considered as free from all the obligations contained in this Bill, they are extending their business and they are mostly scheduled banks. This subject was very seriously put before me by some members of the Coalition Party as well. When my friend Mr. Kamini Kumar Dutta says, "Why should you make an invidious distinction like this and why should not a similar concession be given to other banks who are in existence," I admit that there is much force in the statement that he has made.

Dr. RADHA KUMUD MOOKERJI: Why don't you accept his suggestion?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Please wait. It is really to guard against this menace that the Government has been induced to bring in the question of notified banks in this Bill. The difficulty which was experienced by Government was this. Out of 600 banks or more, not more than 8 or 10 banks are really alive and the rest are dead. And these dead banks are doing havoc in the country.

Mr. AMULYADHONE ROY: Are they ghosts?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: They are instituting suits against their debtors and getting decrees and harassing them.

Mr. LALIT CHANDRA DAS: There are the debt settlement boards.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: There are people who cannot go to the debt settlement boards.

Mr. LALIT CHANDRA DAS: Hardly any!

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Only those who are agriculturists can go there.

Mr. LALIT CHANDRA DAS: Even Ministers go there.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: A Minister may be fortunate enough to be an agriculturist, but there are others who are not agriculturists. However, that being so, these banks, specially those that have closed their doors and that are practically under suspicion by orders of the High Court, are creating a lot of trouble.

Dr. RADHA KUMUD MOOKERJI: How can a Minister be an agriculturist?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Suppose, I cultivate my own land.

Dr. RADHA KUMUD MOOKERJI: With your own hands!

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: That is not the point. Let me continue. Now, the question is that Government have carefully considered this point and they say that if the Legislature give them sufficient power to grant exemptions to some

more banks by declaring them as "notified banks" so as to enable them to be free from the trammels of this Act, Government will be only too glad to do that. It rests now with the Legislature to think of clause 3 and to make it an easy affair for the Government to notify banks, if they want to do so. Instead of saying that no bank should be allowed to be outside the scope of the Bill, if you rather say that those banks that are actually operating now and are not simply realising their dues from the debtors should also be protected, then there would have been some meaning in it. Government would have considered this point very carefully, but when you say that all banks should be excluded from the operation of this Bill——

Mr. KAMINI KUMAR DUTTA: I have not said that.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: That is the substance of what you said.

Mr. KAMINI KUMAR DUTTA: No. I said that all banks should be included without any exception.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: I beg your pardon. When you say that all banks should be controlled by this Bill, you thereby want to enter the field of dispute. You want to say that those banks that are actually giving credit to the people and have not closed their doors and are taking risks should not be allowed to be exempted. I would ask my friend Mr. Kamini Kumar Dutta, if I accept his amendment, whether it will not materially damage the very structure of the credit system. What I want to impress upon my friend is that if there are some banks which have still been functioning in this province, and not simply realising their dues from the debtors they could have come forward with a proposal that those banks should be excluded from the operations of the Bill. Then, Government would have seriously considered their standpoint and would have done something. But at present, Government find that Rs. 11 crores are being realised suddenly from the debtors and they are not in a position to pay such a huge amount all at once. That is why all these steps have been taken in the Bill to protect the debtors. When I say so, I say with the full knowledge of facts, and I would ask my friends to consider this that when the Government have taken this step of protecting some banks they have simply the preservation of the nucleus of the credit system in view.

Mr. AMULYADHONE ROY: That is the entanglement.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: When the nucleus is there, the legislators can from time to time, by putting questions, ask the Government to extend the operation of section 63 of the Act and thereby restore the credit system of the

country. This is the reason which now compels me to oppose my friend's amendment. We do not want to disturb the nucleus. If the nucleus goes, then all the credit system will disappear and there will be great difficulty in restoring that system again. So, I would ask my friends to think of this and not to press this motion. When I say so, it is not because I have the majority to support me. Mr. Kamini Kumar Dutta is a particular friend of mine. I appeal to him as an elder brother and not as a Minister to consider this. I would simply tell him that the nucleus that the Government have kept is the nucleus of the credit system which should be kept intact. Let us not disturb it. It ought to be his duty to come forward with proposals for extending this nucleus and increasing the number of notified banks, so that the credit system in the country may function properly. Sir, that is the reason which impels me to oppose this motion and nothing else. Capitalists or no capitalists—they cannot do anything when the principle is involved. My friend, Dr. Mukerji, has said that we are at the mercy of the capitalists, and it is simply to please the capitalists that we are doing everything, as if we are a set of fools carried by the capitalists by our nose and ears and we simply do as we are commanded. But I must say that that is not the point. (Dr. RADHA KUMUD MOOKERJI: That is the point.) No, Sir, that is not the point, if my friend has understood what I have said. He says that he is an economist. I now ask him, is he as an economist asking me that we should destroy the credit system of the country? (Dr. RADHA KUMUD MOOKERJI: In the rural areas you are doing this.) That is why we are introducing that part of this Bill which refers to notified banks. It has been mentioned that it will be necessary to lay down conditions for us to extend this provision or rather to extend the privileges of the scheduled banks to the notified banks. It has been laid down in the draft that the Council will be able to lay down the conditions which will be necessary before any banks can be notified as such. So, if you be hard, then there will be a very small number of notified banks. But if you like to extend more facilities to other banks and if you make the conditions less stringent, then there will be more notified banks in the country. So, in that case, the entire responsibility will fall on the wise heads of this House as well as of the Lower House. You should carefully consider whether you should shift this responsibility on the Government for granting that privilege to any banks in future, or whether you will take the responsibility upon yourselves, and lay down conditions which will make it impossible for any Government to exist. In such circumstances, when I say that you should protect the credit system of the country without stifling it, I appeal to you to think of this and to frame your laws in such a way that you give sufficient power to Government to declare those banks, which my friend, Mr. Kamini Kumar Dutta, has in mind, as notified banks. This alone will solve the problem. If the notified

banks are there and the scheduled banks also transact their business side by side, there would be no competition and one class of banks would not extend business at the expense of the other. I hope, after what I have said, my friend will consider very carefully whether clause 3 should be so amended as not to give sufficient power to Government to do good to the country and will withdraw his motion.

Mr. RANAJIT PAL CHOUDHURY: It will not be withdrawn but pressed to a division.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Why should you do like that? Among friends, there should not be any dispute.

Mr. PRESIDENT: The question before the House is: that in clause 2 of the Bill, paragraph (*i*) of sub-clause (*13*) (*d*) be omitted.

The House then divided with the following result:—

AYES—10.

Chakraverti, Mr. Shrish Chandra.
Das, Mr. Lalit Chandra.
Datta, Mr. Bankim Chandra.
Dutta, Mr. Kamini Kumar.
Goswami, Mr. Kanai Lal.
Maitra, Rai Bahadur Brojendra Mohan.
Mookerji, Dr. Radha Kumud.
Pal Choudhury, Mr. Ranajit.
Ray, Mr. Nagendra Narayan.
Roy, Mr. Amulya Dhone.

NOES 29.

Ahmad, Khan Bahadur Naziruddin.
Ahmed, Mr. Mesbahuddin.
Ahmed, Mr. Nur.
Baksh, Mr. Kedar.
Barua, Dr. Arabinda.
Chowdhury, Mr. Khorshed Alam.
Cohen, Mr. D. J.
D'Rozario, Mrs. K.
Ellahi, Khan Bahadur S. Fazal.
Haider, Nawabzada Kamruddin.
Hosain, Khan Bahadur Saiyed Muazzamuddin.
Hossain, Mr. Latafat.
Hossain, Mr. Mohamed.
Hunter, Mr. H. C. A.
Huq, Khan Bahadur Syed Muhammad Ghaziul.
Ibrahim, Khan Bahadur Maulvi Mohammad.
Karim, Khan Bahadur M. Abdul.
Khan, Khan Bahadur Muhammad Asaf.
Khan, Maulana Muhammad Akram.
Laidlaw, Mr. W. B. G.
Molla, Khan Sahib Subidali.
Momin, Begum Hamida.
Rahman, Khan Bahadur Mukhlesur.
Rashid, Khan Bahadur Kazi Abdur.
Ross, Mr. J. B.
Scott-Kerr, Mr. W. F.
Sen, Rai Sahib Jatindra Mohan.
Shamsuzzoha, Khan Bahadur M.
Singh Roy, Mr. Saileswar.

Mr. PRESIDENT: Order, order. The House has divided.

The "Ayes" being 10 and the "Noes" 29, the amendment is negatived.

The Council stands adjourned till 2-15 p.m. on Wednesday, the 17th January.

Adjournment.

The Council then adjourned till 2-15 p.m. on Wednesday, the 17th of January, 1940.

Members absent.

The following members were absent from the meeting held on the 16th January, 1940:—

(1) Rai Bahadur Keshab Chandra Banerjee.
(2) Mr. Moazzemali Chowdhury.
(3) Mr. Humayun Reza Chowdhury.
(4) Khan Bahadur Rezzakul Haider Chowdhury.
(5) Mr. Narendra Chandra Datta.
(6) Khan Bahadur Alhaj Khwaja Muhammad Esmail.
(7) Mr. H. G. G. Mackay.
(8) Mr. Naresh Nath Mookerjee
(9) Rai Bahadur Satis Chandra Mukherji.
(10) Mr. E. C. Ormond.
(11) Rai Bahadur Radhica Bhusan Roy.
(12) Mr. K. C. Roy Chowdhury.

B. G. Press—1939-40—12516A—750.

THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Wednesday, the 17th January, 1940, at 2-15 p.m. being the twenty-seventh day of the Third Session, pursuant to section 62 (2) (a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

The Bengal Sanskrit Association.

146. Mr. RANAJIT PAL CHOUDHURY (on behalf of Rai Bahadur Brojendra Mohan Mitra): (a) Will the Hon'ble Minister in charge of the Education Department be pleased to state—

(i) when was the Council of the Bengal Sanskrit Association reconstituted;

(ii) if any meetings have been held since its reconstitution; and

(iii) if so, how many?

(b) If the reply to clause (a) (ii) be in the negative, will the Hon'ble Minister be pleased to state the reasons for not holding any meeting when the same has been long overdue?

(c) Is it a fact that although requested by certain members of the Council of the Association to call a meeting for the transaction of urgent business in connection with the forthcoming examinations, the Secretary has not thought it fit to do the same on the plea of resignation of the President, Sir Manmathanath Mukherjee?

(d) Will the Hon'ble Minister be pleased to state whether the Director of Public Instruction instructed the Secretary, Dr. S. N. Das Gupta, not to call any meeting on the ground that the proceedings thereof would be invalid in the absence of the permanent President and authorised him to discharge the functions exercisable only by the Council of the Association?

(e) If the answer to clause (d) is in the affirmative, will the Hon'ble Minister be pleased to state under what rule of business would a meeting be irregular or invalid in the absence of the permanent President?

(f) Is it a fact that by circular letters the Secretary of the Association informed the members of the Council that no meeting could be held owing to the resignation tendered by Sir Manmathanath Mukherjee of

the office of President, and that the distribution of Government grants would be made and all steps for holding the examination would be taken by him?

(*g*) Will the Hon'ble Minister be pleased to state whether it is a fact that it was on receipt of various and repeated allegations of nepotism and mismanagement by the present Secretary in connection with the holding of examinations that a Committee of Enquiry was appointed by Government?

(*h*) If the answer to clause (*g*) is in the affirmative, will the Hon'ble Minister be pleased to state why, in spite of all this, the Secretary is allowed to perform the responsible duties concerning the examinations and to distribute the grants?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK (on behalf of the Hon'ble Mr. A. K. Fazlul Huq): (*a*) (*i*) In August, 1939.

(*ii*) No.

(*iii*) Does not arise.

(*b*) to (*e*) The facts are as follows:—

The Secretary of the Association had been instructed to carry on the work of the Association in consultation with the Council, but, finding that many members of the Council were unwilling to attend in the absence of a President, he sought advice of the Director of Public Instruction and in consequence carried on without summoning the Council. It was then thought that this state of affairs would last only a short while.

(*f*) Yes.

(*g*) No.

(*h*) Does not arise.

Appointment of the typists and copyists in the Burdwan Collectorate.

147. Khan Sahib ABDUL HAMID CHOWDHURY (on behalf of Khan Bahadur Maulvi Muhammad Ibrahim): Will the Hon'ble Minister in charge of the Revenue Department be pleased to state—

(*a*) the sanctioned strength of the typists and copyists in the Burdwan Collectorate;

(*b*) the number of typists and copyists employed at present;

(*c*) the number of Hindus, Muhammadans and Scheduled Castes among the employed men; and

(*d*) whether there is a vacancy in the sanctioned strength, and, if so, whether it is desired to appoint any suitable candidate to the same?

MINISTER, in charge of the REVENUE DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) There is no fixed sanctioned strength of the typists and copyists in the Collectorate. The strength depends upon the total receipts of copying fees and the number has to be regulated under rule 323 of the Bengal Records Manual, 1928.

(*b*) Two typists and two copyists.

(*c*) All are Hindus.

(*d*) No.

The Bengal Money-lenders Bill, 1939.

Mr. PRESIDENT: The House will now resume further consideration of the Bengal Money-lenders Bill, 1939.

Rai Sahib INDU BHUSAN SARKAR: Sir, I beg to move that in sub-clause (*13*) (*d*) of clause 2 of the Bill, in paragraph (*i*), all the words and figures beginning with "which was" in line 1, and ending with "advanced" in line 9, be omitted.

Sir, yesterday I heard many arguments set forth by the Hon'ble Nawab Bahadur as regards the amendment moved by my hon'ble friend Mr. Kamini Kumar Dutta. I shall deal with them later on.

Now, Sir, this amendment seeks to do away with the distinction that has been sought to be made between banks and banks. Scheduled and other notified banks have been excluded from the scope of the Bill presumably on the ground that otherwise it would impede the free flow of credit within the province. But the same reason can be applied with equal cogency, if not more, in the case of other banks as well. For, the scheduled and notified banks do big scale financing only and are concerned mainly with borrowers of large amounts, such as importers, exporters and large scale manufacturers. They hardly cater to the needs of the immense mass of trade in the country in which agriculturists and small traders and distributors are vitally concerned and who are now in many cases accommodated by smaller banks in the mufassil. All banks from the smallest to the biggest transact business with money mainly received by them on current accounts or on deposits. Those current accounts and deposits are made mainly by people, many of whom are poor. The share capital contributed by the shareholders is a small proportion of the money used by a bank. By bringing all banks within the operation of this Bill, the persons who will suffer most will not be the shareholders but the very large number of poor depositors. Those that have deposited money or have accounts with banks; who were included in the list of scheduled banks on the 1st of January, 1939, will have a special privilege which is denied to the other banks who

are probably more in need of protection, because the freezing of the capital of those banks will injure a much larger number of really poor persons. The *modus operandi* of these smaller banks is the same as that of the bigger banks, the distinction being mainly concerned with the amount involved in a single transaction or deal. There is, therefore, no reason whatsoever for discriminating against the smaller banks. If most of these banks are under-capitalised and therefore not qualified enough to be included as scheduled or notified banks, the reason has to be sought in the general economic condition of the country, for financing institutions are largely the reflex of the economic health of a country. So, in a poor country like ours, it is too much to expect that all the banks will be able to secure large paid-up capitals at their very inception to come within the category of the proposed notified banks. It is only after a few years of working that their financial position would justify them to be included as (scheduled or) notified banks. Under the circumstances if these smaller banks are handicapped in comparison with bigger ones, they will have little chance of making satisfactory progress in future. It is only recently that the people of the province are coming to realise the benefits of a sound banking system to the economic life of a nation, and the contribution of the smaller banks in popularising the idea of banking among the masses is not inconsiderable. So, unless these smaller banks are also excluded from the scope of the Bill, it would have the effect of retarding the growth of banking habits among the masses which have only just begun.

Sir, I may mention here the utility of a bank. I have thought over the matter. As far as I have been able to understand, it teaches us habit of thrift, helps us in regulating our economic life, stands by us in times of our financial difficulty and also helps us to acquire property, movable or immovable; in short, it provides almost all facilities which a life insurance company does.

Sir, the Hon'ble Nawab Bahadur who is in charge of this Bill explained his attitude yesterday regarding the motion moved by the hon'ble Mr. Kamini Kumar Dutta, leader of the Congress Party. The Hon'ble Nawab Bahadur said that by excluding the scheduled and notified banks he wants to preserve the nucleus of the credit system in the country. When time will come he will enlarge that nucleus in the shape of notified banks. This shows that he is anxious for maintaining the credit facility. If that be the fact, Sir, I think he can have no objection to exclude small banks which served and have been serving the rural people in times of their difficulty. Sir, when a rate of interest has been fixed in this Bill and considering other pros and cons, will it be feasible for smaller banks to demand a higher rate of interest and more so when these banks are conducted by representatives of shareholders and in

some cases by that of shareholders and depositors? Sir, yesterday the Hon'ble Nawab Bahadur was telling us on the floor of the House that smaller banks are creating havoc, so to say, over their debtors, specially poor agriculturist debtors, by instituting suits and executing decrees. Sir, I may tell the House that I am connected with two banks and I see that the position is reverse. Now-a-days, it is the debtors who are really creating havoc over their creditors—here I mean bank—by applying to the Debt Settlement Boards. According to the figure of the Hon'ble Nawab Bahadur, there are 600 banks in Bengal, of whom only 8 or 10 are alive, i.e., 99 per cent. are going to close their doors. If this be the state of things, Sir, how can it be said with relevancy that smaller banks, specially of mufassil area, are still sucking the life-blood of poor debtors, specially the agriculturists. Sir, there are good and bad elements in everything. If we find that some banks are not up to the mark and are not discharging their functions satisfactorily, let them be given a chance for rectification. When we have got provincial autonomy, we should see that our own institutions do not die as a result of our action.

Sir, we always speak of rural uplift as the urban areas are already enjoying some rights and privileges which are denied to rural areas. If this be the case, Sir, may I not express that those long-enjoyed privileges should now be thrown open to the rural people by way of establishing rural credit societies, etc.? But here we are going to deprive the said people of their legitimate rights by enforcing the small banks to come within the scope of this Bill. Of course, I know, Sir, that 15 annas of mufassil banks are going to be extinct and we are simply helping them in their annihilation.

Sir, co-operative banks and these small banks are no doubt doing some useful services, and in both these institutions there may be and must be some defects. When co-operative banks are going to be excluded—which in my humble opinion should be excluded—Sir, what unpardonable offence these small banks have committed, so that they will be treated in a different and harsh way? Moreover, when we are going to extend the rights and privileges of masses and are opposed to vested rights, I do not follow why a nucleus in the shape of scheduled banks only, who are big in every respect, should be kept up at the cost of smaller banks, so to say. I may add that it is not a democratic policy. In this particular case, we are really favouring the vested rights, if I am permitted to say so. Sir, the Hon'ble Nawab Bahadur was telling us yesterday that for extending the nucleus of credit he is going to create notified banks. But as our country is passing through an economic crisis owing to the last flood, drought, etc., and specially after the establishment of Debt Settlement Boards, very few banks will be able to fulfil the requirements for coming under the scope of notified

banks as it would surely require a big share capital and a big reserve fund. So, I again request the Hon'ble Minister to reconsider this and place all banks on the same footing, i.e., let them be excluded from the operation of this Bill and more specially for the reason when the Reserve Bank has taken up this bank matter.

With these words, Sir, I commend my amendment for the acceptance of this House.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*13*) (*d*) of clause 2 of the Bill, in paragraph (*i*), all the words and figures beginning with "which was" in line 1, and ending with "advanced" in line 9, be omitted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I have yesterday given the House an idea of my anxiety to keep alive some of the banks would serve as the nucleus of the credit system in the country. I have also said that if after enquiry it is found that some of the smaller banks should be protected, provisional arrangements have been made for doing so by declaring them as "notified" banks. When I have given this assurance, I do not understand why my friend should again press this motion before the House. What I have said should, I think, be quite enough for his purpose. You should leave the matter to Government since Government is determined to see that the credit system is established in the province in a regular and satisfactory manner. Why should you think that a bank which is doing its normal work and which is really doing good to the country should not be declared as a "notified" bank? When the rules in this behalf are framed by Government and placed before this House, it may lay down the conditions which are to guide the Government. I need hardly assure the House that Government is too eager to help in building up the shattered credit system of the country, for which all right-thinking men should have sympathy. After this assurance, I hope, my friend will not press his motion.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*13*) (*d*) of clause 2 of the Bill, in paragraph (*i*), all the words and figures beginning with "which was" in line 1, and ending with "advanced" in line 9, be omitted.

(The amendment was negatived.)

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I beg to move that in clause 2 of the Bill, in paragraph (*i*) of sub-clause (*13*) (*d*), for the words and figures "was a scheduled bank on the first day of January, 1939" in lines 1 and 2, the words "is a scheduled bank" be substituted.

Sir, if it is thought that non-scheduled banks should not have the same facilities in law as the scheduled banks, it is but just and proper that there should be no distinction between the scheduled banks themselves on the ground of registration before a particular date. Such invidious distinction will take away the impetus for getting more banks scheduled and will also go against the intentions of the Indian Companies Act, viz., to place the banking system of the country on a stabler basis. I, therefore, move that there should not be any time-limit.

Mr. PRESIDENT: Amendment moved: that in clause 2 of the Bill, in paragraph (*i*) of sub-clause (*13*) (*d*), for the words and figures "was a scheduled bank on the first day of January, 1939" in lines 1 and 2, the words "is a scheduled bank" be substituted.

Rai Sahib JATINDRA MOHAN SEN: Sir, I have also got a similar amendment which is amendment No. 2 in the list. As this amendment has been moved, I support it, and I shall briefly state my reasons.

Sir, scheduled banks are banks included in the Second Schedule of the Reserve Bank of India Act.

Now, section 42 of the Reserve Bank of India Act lays down that every bank included in the Second Schedule shall maintain with the bank a balance the amount of which shall not at the close of business be less than 5 per cent. of the demand liabilities. Before that I wish to place before this House sub-clause (*6*) of section 42 of the Reserve Bank of India Act, which lays down that—

"That the Governor-General in Council shall, by notification in the *Gazette of India*, direct the inclusion in the Second Schedule of any bank not already so included which carries on the business of banking in British India and which—

(*a*) has a paid-up capital and reserves of an aggregate value of not less than five lakhs of rupees, and

(*b*) is a company as defined in clause (*2*) of section 2 of the Indian Companies Act, 1913, or a corporation or a company incorporated by or under any law in force in any place outside British India,

and shall by a like notification direct the exclusion from that schedule of any scheduled bank the aggregate value of whose paid-up capital and reserves becomes at any time less than five lakhs of rupees or which goes into liquidation or otherwise ceases to carry on banking business."

Therefore, it is clear that when a bank wants to be included as a scheduled bank it has got to apply to the Governor-General in Council, and the Governor-General in Council has to see whether such a bank

has fulfilled all the conditions which are necessary for it to be included in the Second Schedule. When such an application is made, I know, as a matter of fact, the Governor-General in Council calls for an enquiry and report from the Finance Department which in its turn consults the Reserve Bank of India. After an enquiry is made into the condition of the bank which has submitted its application, the Reserve Bank makes a recommendation, and then it goes up again to the Governor-General in Council through the Finance Department. There, it will be further examined by the Government of India, and if the Government of India are satisfied that the bank should be included as a scheduled bank, then the necessary notification is made and the bank is included in the Second Schedule as a scheduled bank. So, it is very difficult for an ordinary bank to become a scheduled bank. It has to go through various stages before such an ordinary bank is included as a scheduled bank. The conditions to be fulfilled are very stringent, and therefore my opinion is that no scheduled bank should be excluded as a matter of fact from the operation of the Bill. Now, a difference is sought to be made between a bank which was a scheduled bank on or before the 1st of January, 1939, and a bank which has become a scheduled bank after that date. So far as I can speak for myself, I would like to say that all the arguments which have been advanced from time to time in this House are not convincing as to why a bank which was a scheduled bank on or before the 1st January, 1939, should not be regarded as being on an equal footing with a bank which has become a scheduled bank after that date. I have taken the statistics of the banks which are scheduled banks in Bengal. I find that there are only 9 banks in Bengal which are scheduled banks, of which six were scheduled banks on or before the 1st of January, 1939, and three have since become scheduled banks. These scheduled banks do banking business, and you can very well expect that the other banks which may become scheduled banks will also carry on successfully the banking business. So, my submission to the House is that they should not make any sort of differentiation between a scheduled bank which was excluded from the purview of this Bill and banks which have become scheduled banks after the 1st of January, 1939. Many banks which were not scheduled banks on the 1st of January, 1939, may become scheduled banks, and it may be that they were merely loan offices which have been converted into scheduled banks. With due deference to the observations made by various members of this House, I do not see eye to eye with them. There may be many loan offices in Bengal as the Hon'ble Minister in charge of the Bill has often said. There are 600 loan offices in a moribund condition. Practically nothing could be done to them because they were not in a position to pay any interest to their depositors. Now, Sir, these banks have tried their level best to reconstitute themselves in order that they might be in a position to

pay interest to their customers. And my humble submission to the Hon'ble Minister in charge of the Bill is to help these moribund banks as much as possible in order that they may be revived. If, on the contrary, fresh legislations are made against their resuscitation and coming to life, my submission would be that the rural credit in the mufassil areas would be greatly hampered. So, my proposal is that all banks which will become scheduled banks after passing through all the severe tests should also be excluded from the operation of this Bill. In this connection, I may be permitted to say that the scheduled banks are really the creation of the Governor-General in Council, and it is improper, I think, if not illegal, that these banks should be brought under the purview of the stringent provision of this Bill. They are, as a matter of fact, the creations of the Governor-General in Council, because they have got to obtain the sanction of the Governor-General before they can be made scheduled banks. These are weighty reasons in my mind which are to influence the decision of the House.

With these words, Sir, I beg to support the amendment, which has been moved by my friend Rai Bahadur Surendra Narayan Sinha.

Mr. KADER BAKSH: Sir, my friend Rai Sahib Jatindra Mohan Sen has asked for reasons as to why exemption should not be given to any banks which become scheduled banks after 1st January, 1939. The reasons are obvious. Sir, he has also requested the Hon'ble Minister who is piloting the Bill to help these banks, the number of which is so numerous, to come out of their difficult stage, out of their moribund condition. I want to mention that if these banks, which are merely loan offices, are allowed to become scheduled banks, they will charge higher rates than the rates provided in the Bill. They will be free to charge higher rates. The main object of the Bill is to give ample protection to the agriculturists in the interior, and most of these banks, which are really loan offices, are established in rural areas. These banks are no banks in the true sense of the term and they have been sucking the life-blood of the agriculturists in the interior without any mercy whatsoever. I know personally very well the manner in which these banks are conducted. These banks should never be exempted even if they become scheduled banks hereafter. The whole object of the Bill is to see that these smaller banks do not combine together and call themselves scheduled banks only for the purpose of evading the operation of this Bill. Therefore, I do not see any reason why any bank which was not a scheduled bank on the 1st of January, 1939, should be excluded from the operation of the Bill even if it becomes a scheduled bank hereafter. If there is any honest intention on the part of these banks, let them declare that they will never charge more than

8 or 10 per cent. by way of interest. In that case, I can understand the anxiety to protect these banks. For these reasons, I oppose the amendment of Rai Bahadur Surendra Narayan Sinha.

Mr. HUMAYUN KABIR: Sir, I beg to support this amendment on the following grounds. If the arguments which have been just now advanced by my learned friend have any validity, I could understand the exclusion of all scheduled banks. I do not understand how the arguments which he has advanced enable him to distinguish scheduled banks which were scheduled banks on the 1st of January, 1939, and those which became scheduled banks after that date. If these arguments, namely, that there are scheduled banks which in certain cases are nothing but loan offices and which extort an exorbitant rate of interest from debtors, have any force they may apply also to banks that became scheduled banks before 1st January, 1939. What mystic quality is there in that particular date, 1st January, 1939, in virtue of which those banks which were scheduled before 1st January, 1939, shall be sheep and those which come after the 1st January, 1939, shall be cast into the group of goats and therefore condemned? I do not understand what is the logic behind this arbitrary distinction basing itself on a particular date. On the contrary, I should have thought that members on the other side of the House should be against any such provision which disinguishes between banks which were scheduled banks before the 1st of January, 1939, and those which became scheduled banks after that date. If I am not wrong, I think there is a bank called the Comrade Bank which has not yet become a scheduled bank and it is a bank which was organised primarily on the initiative of Mussalmans of Bengal. As far as I know, there is not one Moslem bank in Bengal which is a scheduled bank. If the present clause is carried in the form in which it has been proposed, it is a discouragement against making new banks scheduled banks, because the special privileges which a scheduled bank gets will not be given to them. That is, Sir, one consideration for which anybody who wants the development of banking business in this province should be against the clause as proposed. We want that there should be more scheduled banks and this applies particularly to Mussalmans who are backward in banking business. Therefore, they require additional inducement in order to make them develop more banks, banks of all types.

Then, Sir, there is the second consideration that a scheduled bank is under the Act required to conform to certain regulations which are pretty definite. A scheduled bank normally has to send a statement of accounts to the Reserve Bank and to the Governor-General in Council every week and certain exceptions are made only on account of geographical difficulties. If they are so far away that sending of weekly statements is geographically impossible, they have yet to send

their accounts once every month. Therefore, Sir, every scheduled bank is under the direct control of the Reserve Bank and also, if I may say so, in a sense under the control of the Governor-General in Council; for accounts have to be submitted once a week normally and in exceptional cases once a month. So, there is control over the operation of banks of this type. Therefore, a scheduled bank cannot normally have the character which has just been suggested by my friend. They will be distinguished from the ordinary sort of loan offices.

Again, Sir, there is a provision that a scheduled bank has to keep a large portion of the assets permanently in deposit with the Reserve Bank. These deposits with the Reserve Bank shall never fall below a very high figure. I was told by a banker that the figure is about 2 lakhs of rupees, i.e., a permanent deposit of about 2 lakhs. I am now told that it is in the neighbourhood of Rs. 5 lakhs. Now, Sir, if a permanent deposit of Rs. 5 lakhs is kept with the Reserve Bank by a bank, it means that this is a large bank and it is interested in large transactions. Such a bank will not be interested in that sort of small petty loan transactions in which we are mainly interested in this Bill. This Bill, Sir, is mainly a Bill intended to protect the small borrowers and therefore, Sir, the apprehension of my honourable friend who has just now sat down seems to be entirely unfounded. Hence on these different grounds, namely, that as much inducement as possible should be given to the growth of banking in this province and particularly to the Mussalmans who are backward in the banking business in this province, secondly, Sir, on the ground that a scheduled bank has to submit its accounts to the scrutiny of the Governor-General in Council and the Reserve Bank at regularly stated intervals and thirdly, Sir, on the ground that scheduled banks have always got to keep large amounts in deposit with the Reserve Bank, which prevents the likelihood of operating in small loans in which we are mainly interested in this Bill, I support this motion, and I put it to members on the other side that they also ought to support this motion.

Khan Bahadur M. SHAMSUZZOHA: Sir, to refute the point put forward in support of this amendment, I may be permitted to observe that it will frustrate the objects of this Bill. I beg to submit, Sir, that the intention of the clause as it stands in the Bill is that only those scheduled banks which were scheduled banks on the 1st of January, 1939, will be able to enjoy the benefits of being scheduled banks so far as the provisions of this Bill are concerned, for they will be immune from its operations. As regards those banks which were not declared scheduled banks, before that date, they won't enjoy that freedom. The main intention is, Sir, to bring the rate of interest of those banks under control which have not been declared scheduled

banks. Many banks will, therefore, naturally desire not to come under its control. Realising that this Bill, once passed, will put under restraint all money-lending activities, many of the banks, which are not conducted in a proper manner, have been trying to amalgamate themselves with other banks, which are also in a moribund condition and thus incorporate themselves into bigger banks and then to apply to the Governor-General for declaring themselves as scheduled banks. By this method they might successfully procure immunity. The condition of these banks is such that they charge an abnormally high rate of interest and thereby, Sir, they are doing much injury to the agriculturists and other peoples who want money for financing their enterprises. So, a limit has been rightly imposed upon those banks which might be trying to get themselves declared as scheduled banks after 1st January, 1939. If we judge matters from this standpoint, then we shall find that it will be more to the welfare of the country that these banks which had not prior to 1st January, 1939, developed the capacity of scheduled bank should not be given a further opportunity to get for themselves concessions available to scheduled banks existing on the 1st January, 1939.

Mr. HUMAYUN KABIR: So, you support the amendment.

Khan Bahadur M. SHAMSUZZOHA: But you have spoken in favour of the amendment.

Mr. PRESIDENT: Order, order. The difficulty is that most of the members do not listen to what others say, and I am very sorry to observe that intermittent talks are being carried on even by many responsible members. The Chair would like to point out that the proper place for carrying on such conversation is the lobby. Indeed, it is meant for that purpose. It is expected that members would not leave their seats often and talk on private matters in the House.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (While returning to his seat.) It was a public matter and not a private matter.

Mr. PRESIDENT: Order, order. It does not matter whether the matter was public or private. Private talk or public talk, whatever that might be, must be carried on in the lobby and not in the House.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, my remark was not meant for the ears of the Chair.

Dr. RADHA KUMUD MOOKERJI: Sir, I rise to accord my whole-hearted support to the amendment which has just been moved by my honourable friend Mr. Kabir.

I am afraid, as I have been all along suspecting on an examination of the various provisions of this Bill, that this Bill is out to reform the business of money-lending out of existence. I have no quarrel with that sort of attitude, because perhaps from some point of view money-lending as a profession should cease in the country, but at the same time this Bill is out in a very unprincipled manner to strike a blow just at those banks which are serving the masses in their own way in rural areas. Government is standing too much for the interests of the capitalists—the big banks, the urban banks, the scheduled banks and so forth. It has absolutely no consideration for the various difficulties under which banking enterprise in Bengal has to struggle. And now to aim a blow at this budding infant industry of banking is what I should say when I view this—*Et tu Brute*! You Government were always swearing by your concern for the interests of the toiling tillers of the soil, the dumb millions and you of all persons should now be found guilty of going back upon your professions and having a principle of differentiation as between larger banks and smaller banks! I think that Government should have proceeded the other way and found out how to develop banking enterprise on proper lines and how to help the small banker on his feet, so that the smaller banks with their small resources will be able to function properly and ably according to the standard laid down in a manner that would make them come to the assistance of poor agriculturists whose credit facilities have been very seriously undermined of late by some misconceived legislation. You go out to the masses and to the countryside and study the condition of rural credit, and you cannot but come to the conclusion that all these sources of credit out in the countryside have been completely extinguished, with the result that while you are talking big as a matter of policy at the metropolis in Calcutta under the influence of big capitalist houses, while you are talking of the big scheduled banks, —I must tell you that India is a poor country where you have to think of things not on a large European scale but you have to think in terms of the small industry, the cottage industry, or small banking and small bankers. You should give every facility for the growth of banking enterprise, and so you should not impose any mechanical time-limit like the 1st January, 1939, as if that was a great holy day for you. You should not give such rigid time-limit which has in reality no existence. You should face the realities concerning banking enterprise, and you should see that these rigid rules do not really arrest the progress of banking enterprise which has already been handicapped by causes beyond our control. For Bengal, at the present moment, needs more and more banks of the right type. You can certainly secure conditions by which banks should be well managed. That is all right.

There is no doubt about it, but pray do not interpose your artificial restrictions to hamper the growth of genuine banking enterprise.

Rai Sahib INDU BHUSAN SARKAR: Sir, I rise to support the motion before the House. I should only say this that there are about 60 scheduled banks in India, and out of that there are only nine banks —Bengali-managed banks—in Bengal. And out of that there are three banks, namely, the New Standard Bank, the Calcutta Commercial Bank and the Pioneer Bank which are going to be included within the list of scheduled banks. Sir, I do not see any reason, when these banks have to pass through the acid test of becoming scheduled banks, why their lot should be a different one from that of the other scheduled banks. In this connection, I cannot but refer to the fact that a definite date, namely, the 1st January, 1939, has been mentioned as the date after which no bank will become a scheduled bank. Sir, this is a thing which I cannot follow, namely, this fixing of a particular date several months back as sacrosanct for securing exemption from the operations of this Bill.

With these words, Sir, I support the motion.

Mr. NARESH NATH MOOKERJEE: Sir, I rise to suport this amendment. Sir, the attitude of my friends on the other side makes me a little suspicious. That is why I rise to take some time of the House.

Sir, I take it that the object of this Bill is to regulate money-lending in this province. I also take it that the object of this Bill is to prevent the poor borrowers from the trouble and the exacting conditions in which they have to borrow from the private money-lenders, but I see, Sir, no reason why we should, at the same time, pass a vote of no-confidence on the Reserve Bank of Indiac If we think that some scheduled banks which were scheduled banks on a particular date should be left outside the operation of this Bill, I do not see why we should not accept the Reserve Bank's opinion and verdict on banks which may in future be declared scheduled banks by them. Why should Government, Sir, step in and say "Oh, we shall look after that business ourselves"? I don't think that it is the function of any Government to say that such and such a bank should be a notified bank or such and such a bank which was a scheduled bank before a certain date should only be exempted from the operations of this Bill and others not. I do hope, Sir, that my friends here in this House, on the other side particularly, will not give in to a request of the Government of this nature. We certainly feel that private money-lenders who have abused the conveniences in which they were lending money all this time deserve to be restricted, and certainly deserve to be punished, for what they have done. But there is no reason whatever why the Reserve Bank of India should be distrusted in this way and such a clause be

inserted in this Bill. That is the only reason why I object to this Bill. I don't think that there should be any differentiation between banks and banks.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: On a point of order, Sir. In this clause it is stated that a bank which was a scheduled bank on the 1st January, 1939, will be excluded from the operations of this Bill. Sir, it means that the banks that have been declared as scheduled banks last year or the banks that will be declared so in the future will, at the discretion of the Local Government, be either excluded or included or be declared as "notified" banks. My point is whether the Provincial Government can do so or not. I submit that this Council arrogate to themselves a jurisdiction to override and nullify the express terms of the Reserve Bank of India Act, 1934. In doing so, its actions will be certainly *ultra vires*.

Under sub-clause (*e*) of clause 2, a scheduled bank means a bank included in the second schedule of the said Act. Section 42 of the Reserve Bank of India Act of 1934 lays down: "Every bank included in the second schedule shall maintain with the bank (i.e., Reserve Bank) a balance, the amount of which shall not be less than five per cent. of the demand liabilities and 2 per cent. of the time liabilities of such bank as shown in the return referred to in sub-section (*2*). The other provisions of section 42 define the duties and liabilities of the scheduled bank. Clause 6 of section 42 vests in the Governor-General in Council power by notification in the *Gazette of India* to direct the inclusion in the second schedule of any bank not already so included which carries on the business of banking in British India subject to the provisions laid down in clauses (*a*) and (*b*) of the said clause "6".

The second schedule gives a list of the scheduled banks referred to in section 42 of the section 2(*2*) of the said Act.

In the Bill it has been proposed under clause 3 that the Provincial Government, by notification in the *Official Gazette*, will declare any bank to be a notified bank for the purpose of this Act from amongst the scheduled banks that will be notified in the *Gazette of India* on a future date. My submission is whether the Provincial Government can do so. Can they notify certain banks and leave out the others?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, there have been a large number of speeches——

Mr. PRESIDENT: Now we are on the point of order.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, may I submit——

Mr. PRESIDENT: I need no assistance on this point. The point raised is that the Local Government have no right to override the provisions of the Reserve Bank of India Act. Now, under section 42 of the Reserve Bank of India Act, provisions have been made for the selection of any bank for being included in the second schedule. But the Government of Bengal have certainly the right to say "We shall give certain rights to certain scheduled banks and not to others". The contention of the Government is not that the other banks will not be considered as scheduled banks under the Reserve Bank of India Act but that they certainly have the right to say, "We will allow certain privileges to a certain number of banks or scheduled banks which were included in the second schedule before a certain date". Accordingly, I rule that the point of order raised is not valid.

Dr. RADHA KUMUD MOOKERJI: May I rise to a point of order arising out of what you have just now stated? I want you to consider, Sir, whether the provisions of the Reserve Bank of India Act can be set aside by the Provincial Government to the extent that scheduled banks as such will not be recognised——

Mr. PRESIDENT: Government never say that they will not be recognised as such. The Local Government have certainly no right to pass any legislation overriding the provisions of the Reserve Bank of India Act. They never say anywhere that these banks will not be treated as scheduled banks. They only say that banks which were scheduled banks on the 1st January, 1939, would be excluded from the operations of this Act.

Dr. RADHA KUMUD MOOKERJI: A scheduled bank is a bank which is invested with certain privileges allowed by the laws of the country and——

Mr. PRESIDENT: Order, order. That is not so. A scheduled bank is what is recognised by the Government of India as a scheduled bank and provisions have been made under section 42 of the Reserve Bank of India Act for the inclusion of such banks in the Second Schedule. The Government are not bound to recognise every bank as a scheduled bank. Rai Sahib Jatindra Mohan Sen has clearly explained what conditions are to be fulfilled, before a bank can be included in the second schedule. It is optional with the Governor-General in Council, who gets advice from the Finance Department and the Reserve Bank itself to declare a bank a scheduled bank. Here, the Government of Bengal confer certain rights on some scheduled banks and deny the same to others. They have every right to do so.

Whether they are right or wrong, that is a different thing. Whether the Local Government has got the right to confer certain rights on others is not the question.

Dr. RADHA KUMUD MOOKERJI: My contention is still—

Mr. PRESIDENT: What is the point of order?

Dr. RADHA KUMUD MOOKERJI: My contention is that it is one of the grounds on which it has been held that the banks as such in certain aspects are the subject of Federal Legislation. If any Local Government tries to deprive a scheduled bank of the privileges to which it is entitled as a scheduled bank in an arbitrary manner, I think that it is the function of the Federal Legislative Authority to check such an aberration on the part of a Provincial Government.

Mr. PRESIDENT: That may be a good ground for not accepting this provision in the Bill. But that is no ground for holding that it is beyond the jurisdiction of the local Legislature.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: In the guise of a point of order, a lot has been said.

Mr. NARESH NATH MOOKERJEE: We want a reply.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: I shall reply to all the points. I am sorry to say that I do not understand the attitude of my friend Dr. Mookerji. He is an eminent economist. He must show us the right path in such matters.

Dr. RADHA KUMUD MOOKERJI: But you do not follow.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: He was telling us yesterday that banks which were scheduled banks on the 1st January, 1939, should not have any protection from us. But to-day he says that scheduled banks coming into existence after the 1st January, 1939, should also be protected. I cannot reconcile these two statements. I would like to have an explanation from him as to how he considers that he is a person who is always consistent. That explains my attitude towards my friend Dr. Mookerji. I personally do not believe that my friend is always earnest in his speeches in this House. If he is, I cannot reconcile these two speeches of his, one made yesterday and the one made to-day. When we were concluding yesterday, he spoke and when we began to-day he again spoke in the same proceedings and in the same forum. He is responsible to the

public for his speeches and will have to atone for this misconduct of his (laughter). However, with all respect, I would say that if he was really serious yesterday and if the Congress Group was really serious yesterday, they cannot to-day say that they will support this amendment because after the speeches of my friend Mr. Kamini Kumar Dutta and others, I thought that there would be no further speeches on the subject and that we would be able to finish the Bill quickly. Now that it has been ordained otherwise, I am prepared to work till midnight to finish the Bill. But, Sir, I will abide by your decision.

The point that I woudd impress upon my friends in this connection is this. If you say that scheduled banks, however new and recent they may be, should also be included in the list of exceptions, then I would rather ask you to think what a scheduled bank is. A scheduled bank is a bank which is included in the second schedule of the Reserve Bank of India Act and which fulfils certain conditions which have been well explained by Mr. Sen. The important conditions is nothing but a deposit of money with the Reserve Bank. You will find nothing in the whole list of those conditions, from which it can be ascertained whether the bank is doing its business in the interests of the country and for the good of the people. Anybody who has got some money and who can actually run the business of banking and deposit some money in the Reserve Bank will be called a scheduled bank. That is why——

Mr. PRESIDENT: Order, order. I think that the point that is made that any body having certain capital with the Reserve Bank can be called a scheduled bank is not right. The Governor-General gives his decision only after making enquiries.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: The scrutiny that is made by the Governor-General or the Finance Department or the Reserve Bank has nothing to do with how the bank invests its money and at what rate of interest it is invested. They only see whether the amount that is accepted is in safe custody and nothing else. That is the first and fundamental point. The Reserve Bank or any other authority bases its opinion on this and nothing else. It is for the Provincial Government to determine whether these banks actually satisfy the requirements of the country and whether their business is being carried on in the right and proper manner. Only then will they declare a bank a "notified" bank.

There is hardly any difference between scheduled banks and "notified" banks under this Bill. Any bank may be notified and it is immaterial whether a bank has small capital or large capital. But

any bank which will be "notified", will have exactly the same privileges as a scheduled bank that existed on the 1st January, 1939. That being so, all that is wanted by Government is that the bank must be managed in such a way that the country is actually benefited by it. The difficulty is this. In many cases, I have found that some of the banks are run by local pleaders in the mufassil. What they do is that they generally advance money to their own clients to get a few more cases from them. This is highly objectionable. They do not conduct the banks in a businesslike manner nor do they manage their affairs in an efficient manner, but they simply try to serve their own ends——

Mr. PRESIDENT: I think the only other question to which the Hon'ble Minister may reply is this: why make a distinction and exclude some and not others?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I would not have made any distinction if my friends of the Congress Group had not brought before me the fact prominently that we have done wrong by allowing these scheduled banks to be outside the scope of the Bill. If they had not brought this so pointedly before me, I would not have the courage to announce that we should see for ourselves whether those organisations which are in the form of scheduled banks should also be respected by us. Of course, I should not have taken my friend Mr. Mookerjee very seriously yesterday, but I was very serious when I spoke.

Mr. NARESH NATH MOOKERJEE: On a point of information, Sir. Why is it that Government is not leaving the power of notification with the Reserve Bank, but keeping it to themselves?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, Reserve Bank has got nothing to do with the rate of interest, at what rate of interest money should be invested. That is our difficulty. The Reserve Bank has not the power of dictating that the rate of interest should be such and such. The Act has not given any power to the Reserve Bank to limit the rate of interest in any way. That is why we argue that we are concerned only with money-lending, and that we are not concerned with the depositors' money at all—that is Government of India's function. We are concerned only with the money-lending portion of it and we want to see that money-lending is carried on in an efficient manner and to the best interest of the country and nothing else. This is our duty, and when we want to do our duty, I hope we will get the assistance of all my friends so that the Act may be worked properly and rightly.

Mr. HUMAYUN KABIR: Why have you drawn a line on the 1st of January, 1939?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: As regards the 1st of January, I may say that when the Leader of the Opposition has said that the banks which existed on the 1st of January, 1939, have also misbehaved and that they should not be given protection, then how can I dare to give protection to those banks which have cropped up after that without full enquiry? If after enquiry we find that the new banks are actually doing real good to the country, there will be new banks are actually doing real good to the country, there will be no hesitation on our part to help them. But all depends on how they work. Enquiry is necessary before we allow a bank to be excluded from the operation of the Money-lenders Bill. I hope, my friend after hearing this will be assured that we have no intention of doing any real damage to any institution if that institution supplies rural credit to the people at a reasonable rate of interest. That is all that we will have to see and watch. If they invest their money to right persons who have got credit in the country and who require credit from the banks at reasonable rate of interest, no Government can do any harm to them. So, I hope this will satisfy you.

Rai Sahib JATINDRA MOHAN SEN: May I ask one question? I think the Hon'ble Minister know——

Mr. PRESIDENT: It must be a question only.

Rai Sahib JATINDRA MOHAN SEN: All right, Sir. Is it not a fact that the scheduled banks created before the 1st January, 1939, charge interest at monthly rests and though the rate of interest may be 6 per cent. or 7 per cent., the cumulative effect of such interest is really above 8 per cent. per annum?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: I am not aware of any such condition. But if such a condition comes to the notice of Government, they will see that real relief is given to the debtor and the rights and privileges at present conferred are taken away from these banks by future legislation.

Mr. PRESIDENT: The question before the House is: that in clause 2 of the Bill, in paragraph (*i*) of sub-clause (*13*)(*d*), for the words and figures "was a scheduled bank on the first day of January, 1939" in lines 1 and 2, the words "is a scheduled bank", be substituted.

The House then divided with the following result:—

AYES—15.

Bose, Rai Bahadur Manmatha Nath.
Chakraverti, Mr. Shrish Chandra.
Datta, Mr. Bankim Chandra.
Dutta, Mr. Kamini Kumar.
Goswami, Mr. Kanai Lal.
Kabir, Mr. Humayun.
Maitra, Rai Bahadur Brojendra Mohan.
Mookerjee, Mr. Naresh Nath.
Mookerji, Dr. Radha Kumud.
Pal Choudhury, Mr. Ranajit.
Roy, Mr. Amulyadhone.
Sarker, Rai Sahib Indu Bhusan.
Sen, Rai Sahib Jatindra Mohan.
Sinha, Rai Bahadur Surendra Narayan.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.

NOES—27.

Ahmad, Khan Bahadur Naziruddin.
Ahmed, Mr. Mesbahuddin.
Ahmed, Mr. Nur.
Baksh, Mr. Kader.
Barua, Dr. Arabinda.
Chowdhury, Khan Sahib Abdul Hamid.
Chowdhury, Mr. Khorshed Alam.
Cohen, Mr. D. J.
D'Rozario, Mrs. K.
Ellahi, Khan Bahadur S. Fazal.
Hossain, Mr. Latafat.
Hunter, Mr. H. C. A.
Huq, Khan Bahadur Syed Myhammad Ghaziul.
Jan, Alhaj Khan Bahadur Shaikh Muhammad.
Karim, Khan Bahadur M. Abdul.
Khan, Khan Bahadur Muhammad Asaf.
Khan, Maulana Muhammad Akram.
Laidlaw, Mr. W. B. G.
Mackay, Mr. H. G. G.
Molla, Khan Sahib Subidali.
Momin, Begum Hamida.
Rahman, Khan Bahadur Ataur.
Rashid, Khan Bahadur Kazi Abdur.
Roy Chowdhury, Mr Krishna Chandra, O. B. E.
Scott-Kerr, Mr. W. F.
Shamsuzzoha, Khan Bahadur M.
Singh Roy, Mr. Saileswar.

Mr. PRESIDENT: Order, order. The House has divided.

The "Ayes" being 15 and the "Noes 27", the amendment is negatived.

Mr. MESBAHUDDIN AHMAD: Sir, I beg to move that in sub-clause (*13*) of clause 2 of the Bill, in sub-paragraph (*i*) of paragraph (*d*), for the word "and" appearing at the end, the word "or", be substituted.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*13*) of clause 2 of the Bill, in sub-paragraph (*i*) of paragraph (*d*), for the word "and" appearing at the end, the word "or" be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is that in sub-clause (*13*) of clause 2 of the Bill, in sub-paragraph (*i*) of paragraph (*d*), for the word "and" appearing at the end, the word "or", be substituted.

(The amendment was agreed to.)

Mr. AMULYADHONE RAY: Sir, I beg to move that in clause 2 of the Bill, in paragraph (*ii*) of sub-clause (*13*)(*d*) the words "Co-operative Society" appearing in line 2, be omitted.

Sir, I do not understand why the Hon'ble Minister is against the inclusion of this clause. To go against the co-operative society is to go against the very principle of the Bill and I do not understand why the Hon'ble Minister is going against the very object of the Bill. To my mind, the primary object of this Bill is, if I have understood it correctly, to give some relief to the half-fed and half-naked poor peasants of Bengal who are undoubtedly the backbone of the country. Now, Sir, I do not understand for a moment why the Hon'ble Minister in charge of Co-operative Credit——

Mr. PRESIDENT: If you are speaking, you are in order.

Mr. AMULYADHONE RAY: On a point of information, Sir.

Mr. PRESIDENT: Yes.

Mr. AMULYADHONE RAY: This is a subject which is not directly in charge of the Hon'ble Minister who is piloting this Bill in this House. There might be some points, the reply to which cannot come from the Hon'ble Nawab Bahadur. I therefore submit to you, Sir, for your consideration whether the presence of the Hon'ble Minister in charge of Co-operative Credit and Rural Indebtedness is necessary or not. I would request you that this amendment be postponed till that Hon'ble Minister comes here.

Mr. MESBAHUDDIN AHMAD: Sir, the Hon'ble Mr. Mukunda Behary Mullick is not in charge of this Bill.

Mr. AMULYADHONE RAY: I entirely depend upon your ruling, Sir.

Mr. PRESIDENT: I am trying to secure the presence of the Hon'ble Minister.

Mr. AMULYADHONE RAY: Till that time, may I have your permission to wait?

Mr. PRESIDENT: This particular amendment is postponed for the time being.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move that in clause 2 of the Bill, at the end of sub-clause (*13*)(*d*), the following proviso be inserted, namely:—

"Provided that if such loan (not being a commercial loan) carries interest above the rate laid down in sub-section (*1*)(*c*) of section 30, it shall be deemed to be a loan within the meaning of this Act but not subject to the provisions of Chapters III and IV of this Act."

Sir, the definition in clause 2(*13*) excepts from the operations of the Bill scheduled banks and certain societies and semi-public bodies. With regard to these bodies, I fail to see why they should not be limited to the standard rates of interest laid down in the Bill, viz., 8 per cent. for secured debts and 10 per cent. for unsecured debts. If these maximum rates are too low for scheduled banks and the other fortunate associated bodies, they are also too low for the small ordinary money-lenders. If the maximum is too low, by all means raise but make it uniform for all. I submit that once the test is laid down for ordinary money-lenders, it should also be applicable to scheduled banks and the other favoured bodies. We are primarily concerned with the position of the borrower and the relief to the borrower. That is the accepted principle of this Bill. I do not know what difference there should be, on principle, between the lender being an ordinary private lender and a scheduled bank. An ordinary lender will not be allowed to realise interest above these rates. But as the Bill stands, without this amendment, scheduled banks will not be debarred from carrying out their money-lending activities at rates of interest above the maximum, viz., 15, 20 or 30 per cent. or more. There is no limit in their case whatsoever. The effect of this unusual discrimination would be that ordinary money-lenders would go soon out of existence, and the scheduled banks would carry on usurious money-lending with impunity. The business that is being carried on by ordinary money-lenders will gravitate towards these scheduled banks who have become the spoilt children of the Bill. I do not know of any reason or principle why this invidious distinction and discrimination should be introduced in the Bill. In these circumstances, I have proposed my amendment. In proposing the same I have had to consider various aspects, namely, that commercial loans should be excluded from the operations of the Bill. There are serious and weighty considerations relating to commercial transactions and such loans ought to be excluded in any case: That is a tremendous amount of concession to all and that would protect all banks, and no one will grudge it. I have, therefore, made it absolutely clear that commercial loans would not be excluded from these exceptions. The exclusion of commercial loans from the operation of the Bill has been clearly retained in the amendment. There are some troublesome provisions in the Bill, viz., Chapters III and IV, requiring money-lenders to take out licences,

making them give statements of accounts and other things to debtors on demand and various other things. The scheduled banks and the other excepted bodies have clear accounts and these provisions need not be brought home against them. I do not think, therefore, we should at all trouble these scheduled banks and the other bodies with these duties. The object of my amendment is solely to make them conform to the standard of interests laid down for others. What is the law for an ordinary money-lender should also be the law for these boides, so far as the rate of interest is concerned. The rate that is equitable for private money-lenders and less favoured banks must also be equitable for scheduled banks and others. Their position will not in the least be affected by the amendment in any other way except that they must not exceed the standard of interest laid down for others. There is no reason on principle why we should show this uncalled-for dispassionately from wording of the clause itself, as it appears in the Bill, and from the discussions in another place, it seems that the compromise was not based on any sound or intelligible principle. The standard of interest solemnly laid down in the Bill has been summarily brushed aside in the case of these favoured parties. It shows gratuitous and undue discrimination or rather indiscreet discrimination in favour of these bodies, and I do not think that we should support that. In these circumstances, I submit that the amendment is necessary and reasonable and it will make all alike stand on the same footing.

With these words, Sir, I commend my amendment to the acceptance of the House.

Mr. PRESIDENT: Amendment moved: that in clause 2 of the Bill, at the end of sub-clause (*13*)(*d*), the following proviso be inserted, namely:—

"Provided that if such loan (not being a commercial loan) carries interest above the rate laid down in sub-section (*1*)(*c*) of section 30, it shall be deemed to be a loan within the meaning of this Act but not subject to the provisions of Chapters III and IV of this Act".

Mr. HUMAYUN KABIR: I want to move a short-notice amendment to this amendment if you will permit it. This amendment came to us at a very short notice but it is a good amendment as the mover has contended. But there is one slight difficulty which, if removed, will, I think, make this amendment acceptable to all sections of the House.

Mr. PRESIDENT: What is it?

Mr. HUMAYUN KABIR: It is the omission of Chapter IV from that amendment. He has provided in his amendment that Chapters III and IV shall not apply to these loans. My amendment will be that the words "Chapter IV" be omitted, the result of which will be that Chapter IV shall apply and I shall advance arguments as to why I want to move this amendment. My amendment is that the words "and Chapter IV" be omitted. Unfortunately I have not got a copy of the amendment before me, because we have not been given copies of that. Now, I cannot say how it will read because I have not got a copy of the amendment but the meaning is quite clear.

Sir, I think that the purpose of the amendment is quite obvious. Khan Bahadur Naziruddin Ahmad has made it very clear that there is no ground why any distinction should be made between one type of creditor and another type of creditor, when they are lending money on the same terms. There is no reason why scheduled banks, co-operative banks, insurance companies or building societies should be allowed to lend money at 15, 20 or 30 per cent. when private money-lenders are precluded from doing so. Therefore, he has moved that such loans will be loans in terms of this Act and shall come within the operation of this Bill if the rate of interest provided in this Bill is exceeded. So far I wholly agree with him. But then he provides a further proviso to his own proviso and suggests that even though these banks—scheduled banks, co-operative banks, building or insurance societies—will come within the operation of this Bill, provided they exceed 8 per cent. and 10 per cent. rates of interest, they shall not be subject to Chapters 3 and 4 of this Bill. I can understand his contention that Chapter 3 of this Bill should not apply to such banks. There is no reason why they should get themselves registered and take licence in order to lend money. As companies, they are entitled to carry on loan transactions. Therefore, Sir, his contention that Chapter 3 should not apply to such transactions is justified. But we do not understand why he wants to exclude Chapter 4 also. Why should Chapter 4 not apply? My contention is that Chapter 4 should apply and, in fact, it is easier for banks, whether they are scheduled banks or co-operative societies or insurance societies, to fulfil the conditions of Chapter 4 more readily than a private money-lender. In fact, banks have their accounts. All that is contended is that a statement should be supplied by them to the borrower. I do not understand why Khan Bahadur Naziruddin Ahmad wants to exclude banks from the operation of Chapter 4. This chapter, after all, is meant to give protection to the borrower. I think he should accept this amendment. I quite agree that Chapter 3 should not apply to such transactions, but why should not banks give a statement of account, should not keep proper accounts and should not send this account once a year to the lender? On these grounds, I move this amendment and hope that the Khan Bahadur will accept it.

Mr. PRESIDENT: Amendment to the amendment moved: that the words "and Chapter IV" be omitted.

Mr. KAMINI KUMAR DUTTA: Sir, I rise to support the main amendment and not the amended amendment. Indeed, it is with pleasure that we note this amendment which strives to remedy to some extent the mischief which would result from the exclusion of some banks. After all, it is a welcome amendment by which, in cases where those banks which have been given some privileges,—if they are found to abuse their position,—provision is made in the law to bring them within the scope of this particular Act. Really speaking, Chapter V, Chapter VI and Chapter VII of this Act deal with matters arising out of the abuse of the functions of a money-lender. When those Chapters have been provided to be applicable to these banks, though for other abuses, they should be exempted from the other provisions of the Bill. I think, that would suffice and as such we welcome this amendment.

Rai Sahib JATINDRA MOHAN SEN: Sir, I also whole-heartedly support the amendment to the amendment which has been moved by my honourable friend, Mr. Kabir. If this amendment in this amended form is accepted, many of our objections will be met because in that case, there would be very little difference between a scheduled bank which was created before the 1st of January, 1939, and those which will be created after the 1st of January, 1939. They will all practically come under the regulation of this Act and in that view, I accord my whole-hearted support to this amendment.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, my friend, Khan Bahadur Naziruddin Ahmad, has moved an amendment. When he says that the scheduled banks, if let loose, will charge interest at a rate much higher than is being allowed to others, I pause and I am not at once inclined to accept my friend's statement as absolutely free from doubt. It is known to everybody that the rate of interest which my friend suggested is an abnormally high rate of interest, namely, 8 per cent. to 10 per cent. For a scheduled bank, it is not a small rate of interest but it is a high rate. Generally, scheduled banks advance money at a rate much lower than 8 or 10 per cent. The smaller banks which receive money from the scheduled banks may invest money at a higher rate of interest. We are not going to protect those banks. We are protecting only those banks which advance money to smaller banks. You have been crying hoarse for giving protection to the smaller banks as well. Now, when you say that smaller banks require this privilege, how can you in the same breath say that this privilege should be taken away from the scheduled banks? I am under the impression that the number of

scheduled banks which advance money to the agriculturists is about 5. I am also under the impression that these banks are actually advancing money at a rate of interest much lower than 8 per cent. and 10 per cent. From private enquiry that I have made about these banks, I have come to know that they do not charge more than 8 to 10 per cent. interest ordinarily. The charge that they demand 25 to 26 per cent. interest is a revalation to me and requires a thorough investigation. So I am not prepared to hang a party without ascertaining the real state of things. If in future, after full enquiry it is found that the scheduled banks are really profiteering and are not looking to the interests of the country, I promise that I will bring in a Bill to take away this privilege from the scheduled banks. All that I want to impress on you is that I am not prepared to hang a man without trial. Let the trial take place in an open court, and if after the trial it appears that the banks which have actually got or are getting some privileges, are not looking to the interests of the country or are not properly supplying credit facilities to the countryside, then these privileges will be taken away from them. I hope, my friend, Khan Bahadur Naziruddin Ahmad will kindly accept my assurance and withdraw the amendment which he has moved.

Khan Bahadur NAZIRUDDIN AHMAD: May I put one question to the Hon'ble Minister? Has he not hanged ordinary money-lenders without trial?

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: It is true but not without trial. We have actually established Debt Settlement Boards all over the country. We are getting reports from these Debt Settlement Boards to the effect that individual money-lenders had been extorting money from the people. So, if after three years' working of the Agricultural Debtors Act and after having read the report of that Board, we find that a case has been made out against them; we are taking necessary steps to stop this oppression, I think, there should be no objection. But if——

Mr. PRESIDENT: I think, the Hon'ble Minister has already replied to the question.

Mr. NARESH NATH MOOKERJEE: On a point of information, Sir. The Hon'ble Minister has only referred to the high rate of interest which is not being charged by banks. But there are other questions involved, like instalments in Chapter VII. Does he not consider that it would be necessary to control this part of the banks' activities because banks are generally very much more nervous with regard to realisation of their money lent than ordinary private money-lenders? If we have——

Mr. PRESIDENT: The honourable member may put a definite question or he may speak on the motion, if he so likes.

Mr. NARESH NATH MOOKERJEE: Sir, I would rather speak on the motion.

Sir, in the first place, I would like to lend my fullest support to the amendment which has been moved by Khan Bahadur Naziruddin Ahmad. Unfortunately, to-day I do not think he is going to be as lucky as he has been right through the discussion with regard to most of his amendments to this Bill. Government's attitude to-day is completely altered. He is no longer the spokesman of the Government, but he seems to be in Opposition to-day. Let us hope that when the amendment is actually put to vote, he will have the courage to come along with us to the "Ayes" lobby.

Sir, what I feel about it is this. If, Sir, we have denied to the ordinary private money-lender the right of lending money at an exorbitant rate and if Government have really brought in this Bill to regulate money-lending in the way in which it should be, I do not see what objection the Government can really have in fixing the maximum rates even for scheduled banks. While I admit that scheduled banks do not generally lend money at exorbitant rates, yet there have been cases where scheduled banks have lent money at more than 8 per cent. on secured loans. Evidence is not lacking in that direction. But, Sir, the point I wish to empahsise is the provisions of Chapter VII. Now, Sir, it is a well-known fact that banks whether they are scheduled banks, notified banks, or non-scheduled banks, are very nervous about their investments. They get nervous at the slightest evil wind. What they generally do is to call for money immediately from the borrower without giving a reasonable time, and then the hardship to the borrower will be far greater than if the lender in this case was a private person, because after all in the case of a private person you can always reason with him, you can always get a great deal out of him by personal contact, but a bank is an impersonal body and is managed by a board. I feel sure that if some remedy is not given to the borrowers the troubles he will have to face from a bank will be far greater and much more acute than what he would have to face from a private money-lender. Therefore, I feel that this is a very important clause. If Government really want to give relief to the borrower, whether it be from banks or private money-lenders they ought to consider this point very carefully before they turn it down. If they want to bring up an amendment which will improve the amendment sponsored by the Khan Bahadur, they can take time to-day but to brush it aside without further consideration would, I think, be vitiating the whole object of this Bill. Now, what will happen? All private money-lenders will set up as banks and there will be no private money-lender in the

country, because there has been so much restriction brought against him and the obvious result of this legislation would be that all the important money-lenders and all the big money-lenders, will set up their own banks. They will set up banks which will be their *benamdars* and will try to evade the Act by taking advantage of these provisions, as they will easily become "notified" banks, I feel that very great caution is necessary, and we must——

Mr. PRESIDENT: They cannot call themselves notified banks unless the Government declare them as such.

Mr. NARESH NATH MOOKERJEE: That is true, Sir. I don't wish to cite personal examples. But so far as big money-lenders in the country are concerned, they can easily deposit five lakhs of rupees with the Reserve Bank of India, and there is nothing to prevent them from becoming scheduled banks and there will be nothing to prevent them from becoming notified banks either.

Mr. PRESIDENT: That is the reason why scheduled banks, which were not scheduled banks on the 1st January, 1939, will not get this privilege.

Mr. NARESH NATH MOOKERJEE: That is only partly true. I am now talking about the question of instalments. Why should we allow these banks to decide for themselves whether they should accept instalments or not? The question of instalments has been made a very important feature in this Bill, and I think it gives a great deal of relief to the borrower. If we allow the scheduled banks to evade this, I think it will be a very very unfortunate thing.

Mr. PRESIDENT: The question before the House is: that in clause 2 of the Bill, at the end of sub-clause (*13*) (*b*) the following proviso be inserted, namely:—

"Provided that if such loan (not being a commercial loan) carries interest above the rate laid down in sub-section (*1*) (*c*) of section 30, it shall be deemed to be a loan within the meaning of this Act but not subject to the provisions of Chapters III and IV of this Act".

Since which an amendment has been moved that the words "and Chapter IV" appearing in the last line be omitted.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, an amendment to my amendment has been moved by an hon'ble member. In these circumstances, I wish to know whether I can ask for permission of the House to withdraw my amendment.

Mr. PRESIDENT: Unless the amendment to the amendment is withdrawn, your amendment cannot be withdrawn.

The question before the House is, that the amendment to the amendment be made.

(The motion was negatived.)

Khan Bahadur NAZIRUDDIN AHMAD: Sir, may I now have the permission of the House to withdraw my amendment?

Mr. PRESIDENT: Has the hon'ble member the leave of the House to withdraw his amendment?

(The House refused permission.)

Mr. PRESIDENT: Order, order: The question before the House is: that in clause 2 of the Bill, at the end of sub-clause 13(*d*), the following proviso be inserted, namely:—

"Provided that if such loan (not being a commercial loan) carries interest above the rate laid down in sub-section (*1*)(*c*) of section 30, it shall be deemed to be a loan within the meaning of this Act but not subject to the provisions of Chapters III and IV of this Act."

(The amendment was negatived.)

Dr. RADHA KUMUD MOOKERJI: On a point of order, Sir. Is it proper for a member to refuse to vote for his own motion and to disown his own child?

Mr. NARESH NATH MOOKERJEE: It is not a legitimate child! (Laughter.)

Mr. PRESIDENT: This is not a point of order. Every member has the right to vote as he likes. If, however, when I put the question, a member gave his vote on one side, he cannot change that side at the time of recording his note on a division being called. When a member is refused permission to withdraw his own motion, he has certainly the right to refuse to vote for his own motion.

Mr. RANAJIT PAL CHOWDHURY: Sir, we had a similar precedent when the Deputy President voted against his own motion regarding the report of the Privilege Committee yesterday.

Mr. PRESIDENT: The House now stands adjourned for 20 minutes for afternoon prayer and will meet again at 4-50 p.m.

(*After adjournment.*)

Mr. AMULYADHONE ROY: Sir, as the Hon'ble Minister in charge of Co-operative Credit and Rural Indebtedness Department is not present in the House, there is the same difficulty.

Mr. PRESIDENT: He was here and he has gone away in connection with an important Government work. We cannot stop him from attending to his other urgent duties.

Mr. AMULYADHONE ROY: In that case, Sir, I submit to you that this matter may be postponed till to-morrow.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, may I make a submission? The Hon'ble Nawab Sahib is in charge of the Bill and he is prepared to reply to any point that may be raised by the honourable member. It is not for the honourable member to say who is to reply to the points raised by him on behalf of the Government.

Mr. PRESIDENT: Yes. Even if the Hon'ble Mr. Mullick had been present here, he would have no right to reply in that sense. All that is desired is that when a particular motion relating to a particular department is discussed, the Hon'ble Minister in charge of that department should be present. But I know that the Hon'ble Minister was here and he also intimated to me that he had an important meeting to attend.

Let us see, as the amendment is discussed, whether the Hon'ble Nawab Sahib is able to meet your point and if he feels it necessary, then and then alone we can postpone consideration of this matter.

Mr. RANAJIT PAL CHOWDHURY: On a point of information, Sir. Does not the Hon'ble Minister know that this is a most important matter?

Mr. PRESIDENT: This is not the point. As a matter of fact, the Hon'ble Minister was here. He saw me in my Chamber and told me that owing to a very urgent engagement he would not be able to be present in the House.

Mr. AMULYADHONE ROY: Your occasional admonition would be effective. Sir, with all respect, I submit that the subject may be postponed as I want a definite answer from the Hon'ble Minister.

Mr. PRESIDENT: When is he likely to come back?

Mr. MESBAHUDDIN AHMAD: I do not think, he is likely to come back this evening.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: If I cannot give him satisfaction, then we may wait for him.

Mr. PRESIDENT: The Chair feels that it is not possible for all the Ministers to be present throughout the sitting, particularly when a Bill with which they are not directly concerned, is being discussed. In this particular case, the discussion may proceed and if the Hon'ble Minister feels that the presence of the Hon'ble Minister in charge of the Co-operative Department is necessary, in that case, it will be postponed.

Mr. AMULYADHONE ROY: Sir, I bow down to your decision.

Sir, a few minutes ago, I was submitting to you that I do not think even for a moment that the Hon'ble Minister in charge of Co-operative Credit and Rural Indebtedness is entirely ignorant of the fact that most of our cultivators who are debtors to the co-operative societis are groaning to-day under the crushing burden of debt. But, Sir, the Bill, as it stands now, will not include a loan advanced by a co-operative society. The question of incorporating co-operative societies in this Bill would never have found a place for discussion in this House had the Hon'ble Minister in charge of the department any influence or voice whatsoever in the Cabinet. The Select Committee of the Legislative Assembly provided for regulation and control of the societies in the same manner as the ordinary money-lending transactions. But when this Bill was on the legislative anvil in the Lower House and was being considered clause by clause there, the Hon'ble Mr. Suhrawardy in the *benami* of the Minister concerned moved an amendment for taking the co-operative societies out of the scope of this Bill. We do not know, Sir, if the Minister to whose care and charge the Co-operative Department has been committed made any protest or gave his consent to such change being made. At any rate, Sir, whatever might be his conduct in the inner circle of the Cabinet, the fact remains that he submitted to the encroachment upon his department in regard to a matter of paramount public importance. If, Sir, the cultivator-debtors are not protected and if they are not relieved by this Bill and on the other hand are subjected to the same amount of tyranny and oppression, what is the good, where is the need and necessity of a Minister of my own community holding the position of dignified impotence? I would like to give you an idea of the oppression to which the borrowers from the co-operative societies are subjected. The village *mahajans* are painted black for their oppression and unsympathetic attitude, but the co-operative societies are even blacker than the ordinary money-lenders in

this respect. When during the flood or famine, the poor cultivators have to pass their days practically without food and clothing, and even the *mahajans* are prepared to wait for payment of their dues or grant fresh loans, public servants of the Co-operative Department make their unwelcome appearance to attach movable properties of these cultivators and to sell them. Whatever little is realised in this way does not cover even the cost of realisation. I do not know whether the Minister in charge of the department will agree with statement of mine. He may deny from a safe distance in this Council Chamber but has he got the courage to deny that in the presence of the people who undergo oppression? In a word, Sir, the co-operative societies having lost their ideal before them have become, as a matter of fact, an engine of oppression.

Now, Sir, it does not require any argument to convince any sophist that when the provisions of this Bill will become the law of the land, the borrowers will be protected and their liabilities will be limited to the maximum payment of twice the principal of the original loan or interest calculated at 8 or 10 per cent. in the case of secured or unsecured loans, as the case may be. But the members of the co-operative societies who are generally agriculturists will be bound to pay more than double the principal of the original loan or interest running more than 8 or 10 per cent. as provided in this Bill. I propose to read out from a report on the workings of co-operative societies which was published during the regime of the Hon'ble Mr. Mukunda Behary Mullick with the signature of his Secretary, Mr. Holland. That report tells us in clear terms that the rate of interest generally charged by the Central Banks on the village societies at present varies from 9¾ per cent. to 10½ per cent., and the interest charged by these societies from the actual borrowers varies from 10 5/16 per cent. to 12½ per cent. Further, it goes on to say that from the collection figures during the last several years one is led to the conclusion that it entails hardship on the borrower if any rate exceeding 7½ per cent. is charged on the loan. This is not my statement; this is the statement of the Registrar of the Co-operative Societies, and I submit to you, Sir, in the face of this admission—does the Hon'ble Minister in charge of the department realise for a moment that he will stand condemned and convicted before the bar of public opinion if co-operative societies are not included in this Bill?

Now, Sir, it might be argued by the Hon'ble Minister in charge of the Bill that at a time when one after another factor has been drying up the rural credit, the co-operative societies might serve the useful purpose of credit institutions. Licence fees as provided in this Bill might tell very heavily upon them. If such arguments are advanced, —and let us hope they will never be done,—from the Hon'ble Minister in charge of the Bill or the Minister in charge of the

department, will they go round the country to see the conditions of the societies? Sir, the co-operative movement which was started over a quarter of a century ago is now the subject-matter of post-mortem examination. The primary societies in the rural areas are now paralysed. They have collapsed, their temperature has gone down, and their pulse is not beating fast enough. Again, I shall read from their report and let us see what they say. They say "It cannot be denied that stagnation in the agricultural side of the movement has set in owing to the stoppage of fresh loans to societies and the necessity of restoring credit to the cultivators of the movement is being keenly felt." This is a picture not drawn by me but has been drawn by the department itself. And, Sir, I submit that the co-operative societies, as they are functioning at present, have no chance——

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, may I know what is the date of the report?

Mr. AMULYADHONE ROY: 30th June, 1937. That means after you assumed office after the introduction of Provincial Autonomy.

Khan Bahadur NAZIRUDDIN AHMAD: But it relates to a period before the advent of Provincial Autonomy.

Mr. AMULYADHONE ROY: It relates to the period when the department was under their administration.

Khan Bahadur NAZIRUDDIN AHMAD: No, but to the previous period.

Mr. AMULYADHONE ROY: Whether it relates to that period or to the period previous to that, it does not matter. The matter is: what is the condition of the country?

Khan Bahadur NAZIRUDDIN AHMAD: Very bad.

Mr. AMULYADHONE ROY: The matter is that we have placed before the House sufficient material which justifies the inclusion of the co-operative societies in this Bill. Now, Sir, I have been submitting to you, that the co-operative societies, as they are now, have no chance of serving our cultivators by functioning as credit organisations, although, Sir, I may tell you that the Hon'ble Mr. Mukunda Behary Mullick might be personally benefited by the appointments of his relatives and promotion of his elder brother.

Khan Bahadur NAZIRUDDIN AHMAD: On a point of order, Sir. The hon'ble member is speaking about the merits of an individual Minister who is not the Minister in charge of the Bill. I do not object to the thing on its merits, but I do so on a matter of relevancy.

Mr. AMULYADHONE ROY: I am submitting to you, Sir, that the Co-operative Minister is absolutely useless. He has done nothing for the department except making some provision for his relatives and sons-in-law.

Mr. PRESIDENT: The conduct of a Minister can be censured in his public capacity and not in his private capacity. There is no use saying that his relations have been provided. A general remark like that may be construed differently, and it will certainly be out of order if you go on making attacks of a personal character of this nature.

Mr. AMULYADHONE ROY: My point is this. By providing for his relations and by promoting his son-in-law, he has made the position of the co-operative societies impossible. That is what I want to submit to you.

Mr. PRESIDENT: Really, the Co-operative Societies Act is not being considered now nor its administration. Whether the co-operative societies should be brought within the ambit of this Bill or not, that is the point. To-day, Mr. Mullick is in charge of this department but to-morrow he may not be. The matter is absolutely out of order from that standpoint.

(Laughter from Coalition Benches.)

Mr. AMULYADHONE ROY: Thank you, Sir. My friends opposite might laugh, but this is a subject in which they are vitally interested. This is a subject in which they should take a special interest and should not be dictated to by the Treasury Benches.

Sir, at this stage, I have nothing to add but to make an earnest appeal to all my hon'ble friends of this House to support this amendment. To my hon'ble friends of the European Group, I might point out that they will not be affected and their interests will not be affected, if they are pleased to support my amendment.

Mr. W. B. G. LAIDLAW: On a point of order, Sir. The hon'ble member has just insinuated that we are here only to see that our interests are not affected. I do not like that insinuation.

Mr. AMULYADHONE ROY: Their interests will not be affected if they support my amendment.

Mr. W. B. G. LAIDLAW: He is reiterating his statement.

Mr. PRESIDENT: Order, order. Hon'ble members are expected to observe ordinary courtesy and not to attribute motives. You may appeal to them, if you like.

Mr. AMULYADHONE ROY: Sir, I will not say that their interests will be affected, but with all respect I will submit to them that if they are pleased to support my amendment, the country will be considerably benefited. To my friends on the Coalition Benches, I am not going to make any request because they are bound by duty and moral obligation to support this amendment. To my friends of the Progressive Group, I might submit that because the Congress could not support their amendment they should not withhold their support so far as this amendment is concerned. I submit to them that the Congress is committed to a matter of principle and that is why they could not support.

To these observations, I would like to add one or two words. Even the Bengal Debtors Act which was sponsored by a member of the Executive Council not responsible to the Legislature applies to these co-operative societies, though to a very limited extent, but it is a wonder that the Bengal Money-lenders Bill, which is far wider and more extensive, should have no application to them.

With these words, Sir, I commend my motion to the acceptance of the House.

Mr. PRESIDENT: Amendment moved: that in clause 2 of the Bill, in paragraph (*ii*) of sub-clause (*13*)(*d*) the words "Co-operative Society" appearing in line 2, be omitted.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I rise to support the appeal which has been issued to all sides of the House by my friend for sympathy towards his motion, but while sincerely sympathising with his wishes I am bound to oppose his amendment. (Laughter.)

Sir, the honourable member has asked our sympathy for the debtors of the co-operative societies. That they deserve sympathy nobody will deny. But I fail to see how the very fact of those societies being brought within the mischief of this Bill will make them happier. In fact, co-operative societies are self-governing bodies, their members govern their own affairs, and if my friend has no faith in self-government the remedy lies elsewhere. The reason why these co-operative societies were taken out of the operation of the Bill is this: that at the time when this Bill was being considered in another place, an

amending Bill for revivifying the co-operative movement was also under consideration and is ready to be passed into law. If the co-operative societies can be rehabilitated and reinforced on the lines of this Bill, then their problem will be solved, and they will fare much better than under this Bill. That is why, Sir, they have been taken out of the operation of this Bill and not for any want of sympathy for the poor debtors of the co-operative societies. I believe, Sir, that the long and rythmic argument of my honourable friend was conspicuous only in its being absolutely irrelevant to the issue, and the argument never really tended to support the conclusion of my honourable friend. I trust I have succeeded in indicating that I oppose the amendment.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, as far as the point raised about the co-operative societies is concerned, I find that Khan Bahadur Naziruddin Ahmad has already met some of the points. The only point to bear in mind in this connection is that, as far as the co-operative societies are concerned, Government have taken steps to reduce the rate of interest. Not only have they reduced the rate of interest of the primary societies but also those people who have put in deposits with the co-operative societies, e.g., private persons who have deposited with co-operative banks at 6, 7 or 8 per cent.—all these have been reduced by amicable arrangements to 4 or 5 per cent. The result is that the co-operative societies are now in a position to advance money at a much lower rate of interest than what they used to do. and wherever possible debts are being reduced, at least, the rate of interest has been reduced. Now, the reason why the co-operative societies have been excluded from the operation of this Bill is that if they were included within the operation of this Bill, then there was a danger that the whole co-operative movement in Bengal might collapse. That would have caused greater harm to the masses and the poor people than excluding them from the operation of this Bill. That is really the main point. We cannot allow the whole co-operative movement in Bengal to fail. There is no denying the fact that co-operative societies had got into difficulties in the past, first of all, on account of the unexpected depression and, secondly, owing to the lack of a sufficient number of supervising staff. The present Government has inherited most of these evils from the previous Governments. Now, the present Government, as soon as it came into office, has gone into this question fairly closely and has taken steps to increase the staff of the co-operative department very largely, and if the honourable members will refer to the budget——

Dr. RADHA KUMUD MOOKERJI: On a point of information. Sir. May I know whether the Hon'ble the Home Minister is not a link between the two Governments?

The Hon'ble Khwaja Sir NAZIMUDDIN: As I was saying, Sir, if the honourable members refer to the budgets of the current year and last year, they will find that a large sum has been provided for increase of inspectors and sub-inspectors of co-operative societies and also for the Registrar of the Co-operative Societies. Special training facilities have been provided for this, and therefore every attempt has been made to rehabilitate the co-operative societies in Bengal. In view of the steps that have already been taken by Government and in view of the effort that has been made by the department to reduce the rate of interest on co-operative loans, it is now felt that there is no necessity for applying this Act. I believe, Sir, that the maximum rate that was in the past realised by the co-operative societies was 12 to 15 per cent. from primary societies, that is to say, the rate which the borrowers had to pay actually to the primary societies. That, I believe, has now been reduced to 10 or 8 per cent. Mr. Kader Baksh tell me that in certain cases it is even 6 per cent. So, actually without the assistance of this Act, Government have managed to reduce the rate of interest to what is being provided in this Bill. In view of what I have stated, I hope, Sir, that the honourable member will not press his amendment.

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I shall associate myself with the remarks made by my honourable friend Khan Bahadur Naziruddin Ahmad and the Hon'ble Home Minister. I have got some practical experience of the co-operative movement, as I am personally interested and connected with some of the co-operative societies of my district.

As regards the rate of interest as stated by the Hon'ble the Home Minister, it is true that the rate of interest which was between 10 and 15 per cent. in the case of borrowers from the primary societies has been reduced and is being reduced gradually. Besides that, at the time of cultivation, the Co-operative Department has now come forward to help the agriculturists with short-term crop loans at a low rate of interest. Moreover, Sir, under the Co-operative Societies Act of 1912, there are other kinds of societies such as anti-malarial societies, co-operative stores, house-building societies, etc. So, it is necessary that co-operative societies should be excluded from the operation of this Bill in order to protect the co-operative movement and to continue the progress of the movement in the province. At a time when the local *mahajans* were charging about 37 per cent. interest—at that time the co-operative societies were started to protect the poor agriculturists, and when the rate of deposit was so high as 7 or 7½ or even 8 per cent. in some cases, then primary societies used to charge 9 to 15 per cent. So, in comparison to the rates of the local *mahajans*, the rate was much lower. Now that the bank rate is much reduced, the co-operative societies also are trying to reduce the rate of interest as far

as possible. Besides that, as has been already stated, for removing some of the evils that have been experienced, a new Bill is awaiting consideration of the Legislature. It might be that in a very few cases there might have been some amount of oppression and extortion owing principally to the ignorance or want of intelligence on the part of the officers and the honorary workers,—but now a training class has been opened under the control of the Registrar of Co-operative Societies, for imparting to the officers of this department training in Co-operative laws, proper checking of accounts, administration and this and that. I think the remarks made by the honourable member over there will draw the attention of the Minister in charge, and the defects will be removed gradually; but as far as the co-operative societies are concerned I think that they should be exempted from the operation of this Bill.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, after the able speech of my friend, the Hon'ble Khwaja Sir Nazimuddin and the member of the Opposition (cries of "Not opposition")—I am sorry, the member from the Progressive Benches, I feel that I have very little to add. I may simply say this that I sympathise with my friend Mr. Amulyadhone Roy for his missing the Minister of Co-operative Societies and for his failure to heap abuses on the latter who happens to belong to his community. Sir, my friend referred to a certain report which was published early in 1937 covering the work of the time before this Ministry actually took office.

Mr. AMULYADHONE ROY: But the facts are there!

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: So, a quotation from a report which was published in June, 1937, does not carry much weight. If he could have read from a report which has been published after that and during our time reviewing the work of co-operative societies, there would have been some justification for his casting all these reflections on the department. But at present, Sir, I do not think that there is really any justification for casting any reflection. Mr. Sinha who has just spoken has given you the record of co-operative societies for the last three years for the improvement of financial condition as well as for the reduction of the rate of interest payable by the debtors. This being the case, Sir, I see no reason why my friend should cast reflection upon the department. But in this Bill it is not the department with which we are concerned but with the co-operative societies which have been excluded from the operation of this Bill. The very essence of this Bill is that we are actually regulating the conduct of money-lenders. In the case of the co-operative societies, there is no money-lender there. Members of co-operative societies manage their own affairs; they give loans out of funds which

they themselves raise at a rate which they decide upon. So, how can there be extortion when a man takes money from his own pocket and uses it himself?

Then, Sir, another point has been raised by my friend, namely, that a lot of oppression takes place in the interior where money is being realised by force from the debtors. But a little scrutiny of his remarks will at once show that these are vague allegations which cannot be investigated into.

Mr. RANAJIT PAL CHOUDHURY: Question.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: No one can work on the allegations of my friend. My friend always eloquently says that the half-famished and half-clad people are suffering. But no half-famished and half-clad people are members of these societies. The members of these societies are almost all of them educated people who know something about the organisation and something about the management of these societies. If my friend wants to show to the country that these half-fed, half-clothed and half-naked people are suffering from the oppression, probably they may be suffering from the oppression of others, viz., the money-lenders whom we are going to restrain, but not from the oppression of this Co-operative Department.

Mr. RANAJIT PAL CHOUDHURY: Question.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: My friend questions, but before the House can accept this statement, a thorough enquiry is necessary. That is all I can say. And having regard to the fact that there is no debtor or creditor in the sense in which we have actually understood the term "money-lender" or the "creditor", there is no justification for bringing in co-operative societies within the purview of this Bill. So, I oppose the amendment.

Mr. PRESIDENT: The question before the House is: that in clause 2 of the Bill in paragraph (*ii*) of sub-clause (*13*) (*d*), the words "Co-operative Society" appearing in line 2, be omitted.

(The amendment was negatived.)

Mr. PRESIDENT: The next amendment deals with promissory notes, on which a point of order has been raised. Before taking up discussion on it, I shall give my ruling.

President's Ruling.

The point of order raised relating to promissory notes is that since it is specifically mentioned in item 28 of the exclusive Federal List, the matter is beyond the jurisdiction of the Provincial Legislature.

The Opposition further contend that money-lending and negotiability are the two most important functions of a promissory note which are affected by some of the provisions of this Bill. The Government on the other hand argue that promissory note does not necessarily deal with money-lending. The definition as incorporated in the Negotiable Instruments Act does not even mention of money-lending. They also contend that the provisions of the Bill do not in any way prohibit the negotiability of a promissory note, as the provisions in the Bill regulating the rate of interest do not in any way affect a promissory note, until it is brought before a Court of Law for the enforcement of the rate of interest stipulated therein. Referring to section 4 of the Negotiable Instruments Act, I find the definition of a promissory note as follows:—

"A 'promissory note' is an instrument in writing (not being a bank-note or a currency note) containing an unconditional undertaking, signed by the maker, to pay a certain sum of money only to, or to the order of, a certain person, or to the bearer of the instrument."

It is evident that a promissory note need not necessarily be based on money-lending as the consideration of such a sum need not be a loan. The Bill, in its present form, may hamper to a certain extent the negotiability of such a note, but it does not prohibit its negotiability.

As to the point that some of the provisions relating to promissory notes in this Bill are repugnant to some of the sections of the Negotiable Instruments Act, Civil Procedure Code, the Contracts Act, the reply is that even admitting such repugnancy the provisions are not void if they are reserved under section 107(2) of the Government of India Act for consideration of the Governor-General and receive his assent.

I, therefore, hold that the provisions of the Bill on which the point of order has been raised is not *ultra vires* of the Provincial Legislature.

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I beg to move that in sub-clause 13(*e*) of clause 2 of the Bill, the words "other than a promissory note" appearing in lines 3 and 4, be omitted.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*13*) (*e*) of clause 2 of the Bill, the words "other than a promissory note" appearing in lines 3 and 4, be omitted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose it.

Rai Sahib INDU BHUSAN SARKAR: Sir, ——

Mr. MESBAHUDDIN AHMED: I really object to his speech which is not heard on this side of the House. We cannot understand the meaning and nobody takes any notice of it.

Rai Sahib INDU BHUSAN SARKAR: How is it that nobody understands my speech?

Mr. AMULYADHONE ROY: Has the Parliamentary Secretary got any right to say to a member all that he has said?

Mr. MESBAHAUDDIN AHMED: I have got as much right as Mr. Roy has.

Mr. PRESIDENT: Order, order.

Rai Sahib INDU BHUSAN SARKAR: I want to know from you, Sir, whether the Parliamentary Secretary has got any right to make faces at any member of this House.

Mr. MESBAHUDDIN AHMED: Sir, there was no threat at all. I just advised him.

Mr. AMULYADHONE ROY: Your advice is not necessary.

Rai Sahib INDU BHUSAN SARKAR: It is very difficult to say anything when the Parliamentary Secretary is giving advice. If it is advice, his tone ought to be different.

Mr. KAMINI KUMAR DUTTA: May I submit, Sir, that some members of my party have got an important engagement at 6 o'clock. We request that further consideration of the Bill be postponed till to-morrow.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, it was decided some time ago that the House should continue, and if the members of my hon'ble friend's party go away for attending to other business, that is no reason why the House should be adjourned.

Mr. KAMINI KUMAR DUTTA: Sir, my party did not know when it was arranged. If it was arranged, it was arranged

between the Hon'ble Minister and the Coalition Party and we are told of it only just now. If we had known before, we would have arranged our business accordingly. We are quite anxious to sit. We were not informed of it beforehand, and therefore we had arranged our other business, thinking that the House would not sit late.

Mr. PRESIDENT: Let us see what progress we make in the next 15 minutes.

Mr. RANAJIT PAL CHOWDHURY: May I submit, Sir, that instead of taxing our brains at this fag-end of the day, we might resume further consideration of the Bill to-morrow?

Mr. PRESIDENT: I think we have not even worked for three hours. Most of the Legislatures sit for five hours. Of course, the point of order raised by the Leader of the Opposition is rather difficult for me.

Mr. KAMINI KUMAR DUTTA: Sir, I am really sorry. I personally suggested some time ago that we should sit for five hours. If we can work for five hours in a court, we can work here also. My party is indeed anxious to sit for five hours. If we had known beforehand we would have come prepared to sit till midnight. That is the difficulty. As we have to come to-morrow, it is no use working now.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Let us try and dispose of the non-controversial items. If there is any item which is considered controversial, that may be postponed till to-morrow.

Rai Sahib JATINDRA MOHAN SEN: May I know in this connection whether we are going to meet to-morrow and, if so, at what hour?

Mr. PRESIDENT: We are meeting to-morrow. There has been a request to me from all the four leaders to meet in the morning at about 9 o'clock. The Chair is agreeable to accede to the wishes of the leaders.

The House stands adjourned till 9-30 a.m. to-morrow.

Adjournment.

The Council then adjourned till 9-30 a.m. on Thursday, the 18th January, 1940.

Members absent.

The following members were absent from the meeting held on the 17th January, 1940:—

(1) Rai Bahadur Keshab Chandra Banerjee.
(2) Mr. Humayun Reza Chowdhury.
(3) Khan Bahadur Rezzakul Haider Chowdhury.
(4) Mr. Narendra Chandra Datta.
(5) Khan Bahadur Alhaj Khwaja Muhammad Esmail.
(6) Khan Bahadur Saiyed Muazzamuddin Hosain.
(7) Mr. Mohamed Hossain.
(8) Rai Bahadur Satis Chandra Mukherji.
(9) Mr. H. P. Poddar.
(10) Khan Bahadur Mukhlesur Rahman.
(11) Rai Bahadur Radhica Bhusan Roy.
(12) Mr. Sachindra Narayan Sanyal.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, on Thursday, the 18th January, 1940, at 9-30 a.m., being the twenty-eighth day of the Third Session, pursuant to section 62(2)(a) of the Government of India Act, 1935.

Mr. President (the Hon'ble MR. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

Appointment of Mr. Kanti Chandra Auddy in the Burdwan Collectorate.

148. Khan Sahib ABDUL HAMID CHOWDHURY (on behalf of Khan Bahadur Maulvi Muhammad Ibrahim): Will the Hon'ble Minister in charge of the Revenue Department be pleased to state—

(a) whether a gradation list of clerks in the Collectorate of each district is maintained in Bengal;

(b) whether under the rules the order in which the names of clerks appear in the gradation list is determined by the Collector himself;

(c) whether any interpolation was made in the gradation list in the Burdwan Collectorate by which the name of one Babu Kanti Auddy, clerk, Burdwan Collectorate, was scored through and inserted higher up the list so as to give him seniority over those immediately senior to him;

(d) whether these interpolations were effected without the authority of the Collector;

(e) whether Babu Kanti Auddy himself was in charge of the gradation list at the time when the interpolation, if any, was effected;

(f) whether the clerks adversely affected by the interpolation appealed to the Divisional Commissioner and whether he came to the finding that there was interpolation in the gradation list and restored the previous order in the gradation list;

(g) whether the said Kanti Babu appealed to the Board of Revenue against the Divisional Commissioner's order and in support of the interpolation in his favour;

(h) whether the appeal of Babu Kanti Auddy has been rejected;

(*i*) whether any attempt has been made to find out the author of the interpolation and, if so, with what result;

(*j*) whether any action has been taken to prosecute the persons responsible for the interpolation or having custody of the gradation list;

(*k*) whether the said Babu Kanti Auddy has since been given officiating appointments in higher grades ignoring the claims of those clerks who had successfully appealed to the Divisional Commissioner as above;

(*l*) whether Babu Prafulla Kumar Halder had been the Office Superintendent of the Burdwan Collectorate throughout the period in question;

(*m*) whether the said Office Superintendent ever reported the matter to the Collector or has taken or suggested any action against Babu Kanti Auddy;

(*n*) whether the Office Superintendent brought these matters to the notice of the Collector at the time or times of the officiating or permanent appointments in higher grade of the said Babu Kanti Auddy; and

(*o*) whether the Collector has taken any action on his own initiative or otherwise on the orders of the Divisional Commissioner?

MINISTER in charge of the REVENUE DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) and (*b*) There are no rules prescribing the maintenance of such a list. In practice, however, a list of the clerks is maintained for ready reference.

(*c*) and (*d*) On the orders of the Office Superintendent, a correction was made in the list of names by taking into account the probationary periods of clerks.

(*e*) and (*l*) No.

(*f*) An appeal was filed before the Divisional Commissioner by a clerk named Babu Sudhir Chandra Banerjee against the inclusion of the probationary periods towards the length of service of a clerk. The gradation list was ordered to be recast by the Commissioner excluding the probationary periods.

(*g*) and (*h*) Babu Kanti Chandra Auddy appealed to the Board but the Commissioner's order being final, the appeal was withheld by the Commissioner.

(*i*) The correction was made in 1933 and the Office Superintendent who ordered the correction left the district long ago.

(*j*) There being no question of interpolation, the question does not arise. Moreover, no *mala fide* intention was found.

(*k*) Babu Kanti Chandra Auddy has been given an appointment in the higher grade. The claims of all the senior clerks were considered and his record was found to be the best. Under the rules, selection for promotion does not depend upon seniority alone.

(*m*) No. There is nothing against Babu Kanti Chandra Auddy.

(*n*) and (*o*) Yes.

Khan Bahadur NAZIRUDDIN AHMAD: Is it a fact that the Collector alone is competent to make changes in the Gradation List?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes.

Khan Bahadur NAZIRUDDIN AHMAD: In this case, the change was made under the orders of the Office Superintendent. Was the change made by the Collector under orders of the Office Superintendent?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I do not understand the question of the honourable member.

Khan Bahadur NAZIRUDDIN AHMAD: With reference to answers (*c*) and (*d*) and the answer just now given, is it a fact that the change was effected under the Orders of the Office Superintendent by the clerk?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I do not think it is necessary to answer that question.

Khan Bahadur NAZIRUDDIN AHMAD: Who made the change?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The change was made not under the orders of the Office Superintendent but under the direction of the Superintendent. This is an usual office routine work which is carried out by the subordinate officers of the department under the direction of the Superintendent. But the order is supposed to be the order of the Collector.

Khan Bahadur NAZIRUDDIN AHMAD: That is not an answer to my question. My question is—who made the actual change, that is, in whose hand-writing was it effected?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Of the clerk.

Khan Bahadur NAZIRUDDIN AHMAD: What is the name of the clerk?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Kanti Chandra Auddy.

Khan Bahadur NAZIRUDDIN AHMAD: Does the Hon'ble Minister stick to the answer given in answer (e) that Kanti Chandra Auddy was never in charge of the Gradation List at any time?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: He was not in charge certainly.

Khan Bahadur NAZIRUDDIN AHMAD: Is that the correct answer?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes.

Khan Bahadur NAZIRUDDIN AHMAD: In that case does he realise that Kanti Chandra Auddy did something which was not his duty to do?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Kanti Chandra Auddy was asked by the Office Superintendent to do certain things which, I presume, the Superintendent had every right to order and that particular work being allotted to this clerk, he carried out the work.

Khan Bahadur NAZIRUDDIN AHMAD: With reference to the last answer which the Hon'ble Minister has given that the Office Superintendent had every right to do it, that probably does not arise out of the question. If the Collector alone is the only person competent to effect these changes, how did the Office Superintendent do something which the Collector alone is competent to do?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I have already stated that certain works are done as routine work and the Office Superintendent had every right to get those changes done. He exercised the power that is vested in him under the orders of the Collector.

Mr. HUMAYUN KABIR: Are we to understand then that alteration in the order of gradation is part of the routine work?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I assume so.

Khan Bahadur NAZIRUDDIN AHMAD: Was the direction of the Office Superintendent given in writing or verbally?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I believe verbally.

Khan Bahadur NAZIRUDDIN AHMAD: It is said that the Office Superintendent has left long ago. Is there any evidence that the order was verbal? If so, what is the evidence?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: As there is nothing written; so it is verbal.

Khan Bahadur NAZIRUDDIN AHMAD: So, there is nothing on record to show that the Office Superintendent permitted the alteration.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes. The Office Superintendent was in charge of the office and he was responsible for anything done in his office. He approved of the work of his subordinate.

Khan Bahadur NAZIRUDDIN AHMAD: My point is that, is there anything in writing to show that the Office Superintendent permitted this alteration—anything in writing?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: These orders are not passed in writing, as my friend ought to know. Particular works are allotted by the Office Superintendent to particular clerks and the allotment of these works is not done in writing.

Khan Bahadur NAZIRUDDIN AHMAD: I am speaking of this particular case. Was the order given in writing? A simple "Yes" or "No" is what is wanted.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I have answered that question. I presume "No."

Khan Bahadur NAZIRUDDIN AHMAD: In that case, what is the evidence on which this authority of the Office Superintendent is based?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The authority is that the Office Superintendent is in charge of certain works as Office Superintendent and it is part of his normal duty. He has the right to allot the works to different clerks in his office and the change in the Gradation List was a normal work that he could easily get done by the officers of his office.

Khan Bahadur NAZIRUDDIN AHMAD: Has the evidence of Kanti Chandra Auddy been taken in this matter?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Government thoroughly enquired into the matter and were thoroughly satisfied that there was no *malafide* intention.

Khan Bahadur NAZIRUDDIN AHMAD: That is begging the question. My question is whether Kanti Chandra Auddy has given any statement in writing about what had happened.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I have nothing further to add on the point.

Khan Bahadur NAZIRUDDIN AHMAD: Does the Hon'ble Minister decline to answer the question?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I have fully answered the question, and I have nothing further to add.

Khan Bahadur NAZIRUDDIN AHMAD: Of course, the Hon'ble Minister is not bound to answer; it is only a request to him to answer the question as to whether the statement of Kanti Chandra Auddy had at all been taken as to what he did in the matter.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Government are fully satisfied that the Collector and the Commissioner went into the matter very thoroughly and there is no reason to suppose that they did not take the evidence of an officer whose evidence is relevant to the enquiry.

Khan Bahadur NAZIRUDDIN AHMAD: That is giving judgment. I want facts.

Mr. PRESIDENT: The question has been answered. In putting supplementary questions, honourable members are to ask for information but not to go on cross-examining the Hon'ble Minister. I think that he had made it absolutely clear what the presumption could be, namely, that the Office Superintendent being in charge when he perpermitted this to be done, it is to be presumed that it was with his permission that this was done.

Khan Bahadur NAZIRUDDIN AHMAD: If that is clear, then I do not want to pursue that question. May I put another question? Is it in the handwriting of Kanti Chandra Auddy?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I ask for notice.

Khan Bahadur NAZIRUDDIN AHMAD: Is the Hon'ble Minister aware that there were previously a series of questions regarding this matter?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes.

Khan Bahadur NAZIRUDDIN AHMAD: And this matter was explicitly and elaborately referred to in those questions?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes; but whether it was in the handwriting of that particular person or not is more than what I can say at present.

Khan Bahadur NAZIRUDDIN AHMAD: Am I to understand that in answering this question, Government is not at all in a position to say in whose handwriting such important changes have been made?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: This much I can say that Government are satisfied that important officers like the Collector and the Commissioner fully satisfied themselves that there was no *malafide* intention. The whole thing was done as a routine work. In fact, formerly, before the decision of the Commissioner in this particular case, officiating periods used to be included in deciding the Gradation List. So, the Office Superintendent was perfectly justified in deciding at the time of the correction of the Gradation List that the officiating period should be counted and included. Following the practice that had been followed in that office, the Gradation List was prepared by the clerk concerned. Now, since the Commissioner gave his decision on this particular case, the practice has been changed. That is the fact of the case.

Khan Bahadur NAZIRUDDIN AHMAD: That is giving judgment and not giving facts.

Mr. PRESIDENT: Order, order. If any further information is necessary, the honourable member can give notice of a further question. There is no bar to that.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state how he can reconcile the statement that the alteration in the Gradation List is a routine work with the answer given here that under the rules selection does not depend upon seniority alone?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: That is so. That is the principle on which selections are made. The selection does not depend upon seniority alone but upon seniority and merit.

Appointment of Superintendents in the district offices of Bengal.

149. **Khan Bahadur ATAUR RAHMAN:** In view of the reply to a supplementary question arising out of question No. 109, of the 3rd January, 1940, will the Hon'ble Minister in charge of the Revenue Department be pleased to state what is the total number of clerks in the district offices in Bengal including Calcutta Collectorate who are empanelled for the post of Superintendent and how many of them are Moslems?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: All matters in connection with appointment to the post of Office Superintendent are confidential and cannot be disclosed. As these appointments are invariably made by promotion, communal considerations do not arise and on reconsideration Government feel that it would be introducing an undesirable precedent to give any information about matters of this nature which are obviously still under consideration as the list may be altered at any time and in any case carries no right to promotion to any person whose name may be on it.

Khan Bahadur NAZIRUDDIN AHMAD: Is the number confidential or are the names and identity confidential?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Number also is confidential: in fact, any information concerning the subject is confidential. My honourable friend will realise——

Mr. PRESIDENT: He wants information and no explanation is necessary. That is a matter for resolution.

Khan Bahadur NAZIRUDDIN AHMAD: Will the Hon'ble Minister be pleased to explain the answer by reference to concrete facts? Supposing the number is 20,100 or 2,000, will it give any indication as to the names of the officials?

Mr. PRESIDENT: It is a hypothetical question.

Khan Bahadur NAZIRUDDIN AHMAD: I would request the Hon'ble Minister to explain——

Mr. PRESIDENT: Questions should not be hypothetical. It is barred by rules. The Hon'ble Minister may be anxious, but it should not infringe the rules. The supplementary questions should be framed according to the rules.

Khan Bahadur M. SHAMSUZZOHA: On a point of order, Sir. Do the rules of our House preclude us——

Mr. PRESIDENT: That is no question. You want to rise on what?

Khan Bahadur M. SHAMSUZZOHA: May I be given time to explain?

Mr. PRESIDENT: Are you rising on a point of order?

Khan Bahadur M. SHAMSUZZOHA: Yes.

Mr. PRESIDENT: What is it?

Khan Bahadur M. SHAMSUZZOHA: Do the rules preclude us from asking the Hon'ble Minister any question with regard to an ordinary administrative matter?

Mr. PRESIDENT: No.

Khan Bahadur M. SHAMSUZZOHA: Are we precluded from asking questions regarding the appointment of Office Superintendents?

Mr. PRESIDENT: That has been done. If the rules had precluded, I would have disallowed the question.

Khan Bahadur M. SHAMSUZZOHA: Can we not put a question?

Mr. PRESIDENT: You cannot put a question which is of a hypothetical nature.

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state why it would be introducing an undesirable precendent if any information is given about the total number of persons who may be eligible for such appointments?

Mr. E. C. ORMOND: On a point of order, Sir. It is not a question of fact. It would be asking the Hon'ble Minister to express an opinion which is expressly forbidden under the rules?

Mr. PRESIDENT: Will Mr. Humayun Kabir please repeat his question?

Mr. HUMAYUN KABIR: Will the Hon'ble Minister be pleased to state on what consideration Government think that it would be

introducing an undesirable precendent to give any information about the total number of persons who may be elegible for the appointment of Office Superintendent?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The total number of persons, as I have mentioned in my reply, is not a fixed quantity. It varies from time to time and it creates no claim to promotion. So, what may be the total number to-day may not be the total number to-morrow, and if we mention the total number, it may lead to a certain inference. If you once admit that Government are prepared to disclose any information from these confidential documents, they may be creating a very dangerous precedent and they may be exposing themselves to questions of details with reference to these documents. That is why we refuse to answer these questions.

Mr. HUMAYUN KABIR: Are we to understand, then, Sir, that it is the hypothetical possibility of alterations in the number of appointments that may be available at any time that is standing in the way of Government?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Not hypothetical. That is a matter of fact. In fact, Government are faced with such problems almost every day.

Khan Bahadur ATAUR RAHMAN: We are not asking what will be the number to-morrow. We are asking what is the existing number in the panel?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The existing number is so variable that Government do not like to state that this is the exact number. Moreover, if they once disclose facts from these confidential documents, they may expose themselves to questions by this House and by the other House as regards other points in these confidential documents which Government consider administratively rather undesirable.

Khan Bahadur NAZIRUDDIN AHMAD: Was the number fluctuating when the answer was settled?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Quite possible.

Khan Bahadur NAZIRUDDIN AHMAD: Would the number be below or above 100?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: That is more than I can say at present. That will not be consistent with my reply.

The Debt Settlement Board of Midnapore.

150. Rai Bahadur MANMATHA NATH BOSE: (*a*) Will the Hon'ble Minister in charge of the Co-operative Credit and Rural Indebtedness Department be pleased to state—

(*i*) the number of Debt Settlement Boards which have been formed in the district of Midnapore;

(*ii*) the total number of applications filed by the debtors and the total number filed by the creditors in the said district;

(*iii*) the total number of suits and execution cases stayed in the courts and withdrawn by the Boards; and

(*iv*) the total number of such suits and execution cases disposed of by them?

(*b*) Will the Hon'ble Minister be pleased to state if he has enquired as to how the provisions of the Act have so far worked in the district of Midnapore?

(*c*) Will the Hon'ble Minister be pleased to state the number of Co-operative Societies—agricultural and non-agricultural—in each district of the Burdwan Division?

(*d*) Will the Hon'ble Minister be pleased to state what is the amount of audit fees realised from Co-operative Societies in the district of Midnapore during each of the years 1932-33, 1933-34, 1934-35, 1935-36, 1936-37 and 1937-38?

(*e*) Did any report about the dishonesty of any Board in the Burdwan Division or any member of any Board in the said Division come to the Hon'ble Minister? If so, will he please mention the name of the Board and the member and the steps taken?

MINISTER in charge of the CO-OPERATIVE CREDIT and RURAL INDEBTEDNESS DEPARTMENT (the Hon'ble Mr. Mukunda Behary Mullick): (*a*) (*i*) 194 (including 13 Special Boards).

(*ii*) By debtors 38,565; by creditors 33,757.

(*iii*) Stayed 14,923; withdrawn 2,285.

(*iv*) 2,912.

(*b*) Yes, it has worked satisfactorily.

(*c*) and (*d*) A statement is laid on the table.

(*e*) Four such complaints were received and they were all forwarded to the Collectors of the districts concerned, one for disposal and the other three for enquiry. With regard to the first no further complaint has been received, and of the three latter two complaints were reported

to be baseless, and in the third case the Chairman resigned. In view of the fact that the Boards are composed of honorary workers, I do not consider it desirable to make public the names either of the members or of the Boards concerned.

Statement referred to in the reply to clauses (c) and (d) of question No. 150.

Districts in the Burdwan Division.	Number of Co-operative Societies.		
	Agricultural.	Non-agricultural.	Total.
1. Burdwan	1,335	174	1,509
2. Midnapore .. .	1,378	110	1,488
3. Birbhum	1,544	81	1,625
4. Howrah	151	64	215
5. Hooghly	346	185	531
6. Bankura	893	111	1,004
	5,647	725	6,372

Amount of audit fees realised from Co-operative Societies in the district of Midnapore.

	Rs.	a.
1932-33	18,726	7
1933-34	20,362	10
1934-35	19,350	11
1935-36	18,715	10
1936-37	17,616	9
1937-38	18,524	1

Watching Movements of Released Political Prisoners.

151. Mr. NARESH NATH MOOKERJI: (*a*) Will the Hon'ble Minister in charge of the Home Department be pleased to state whether it is a fact that orders have been issued to the Sukea Street Police Station to watch the movements of Sj. Satyendra Kumar Basu, a released political prisoner, and now residing at 20, Amherst Row?

(*b*) Is it a fact that the police constables on duty are harassing him every night even after 2 a.m.? Is it a fact that he is aroused late every night and even abused and this has not abated even after

repeated written protests by him to the Deputy Commissioner, North Division, copies of which were forwarded to the Home Minister?

(c) Is it a fact that even his old father is being harassed by the Palong Intelligence Branch, district Faridpore?

(d) Is it a fact that Sj. Satyendra Kumar Basu was released three years ago, unconditionally? If so, what is the reason of such undue harassment by the police?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): (a) Yes.

(b) and (c) No.

(d) Does not arise.

Lottery of non-Bengal Origin.

152. Mr. H. P. PODDAR: (a) Will the Hon'ble Minister in charge of the Home Department be pleased to state whether Government is aware of the fact that a huge sum is drained out of Bengal every year in buying lottery tickets of non-Bengal origin?

(b) If so, will he kindly say whether Government proposes any scheme to stop this flow by prohibiting sale of any such tickets or otherwise?

(c) Is the Government aware that the Government of Burma is running State Lotteries to raise funds?

(d) If so, will the Hon'ble Minister kindly state if he proposes to follow the Burma Government's policy and nourish the national building departments with the sale proceeds of the lottery? If not, why not?

The Hon'ble Khwaja Sir NAZIMUDDIN: (a) No.

(b) The question does not arise.

(c) I have no official information.

(d) The question does not arise.

Oppression on the People of Chakaria Thana.

153. Mr. NUR AHAMED: (a) Will the Hon'ble Minister in charge of the Home Department be pleased to state if he has received a copy of the report, dated the 25th September, 1939, signed by M. Ahmed Chowdhury, Chairman, Non-official Enquiry Commission, Chakaria, dealing with various oppressions practised by Lama thana staff on the people of Chakaria thana of Chittagong district?

(*b*) If so, will the Hon'ble Minister be pleased to state if he has taken any steps to stop this sort of oppression on the people of Chakaria thana? If not, why not?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) No.

(*b*) Does not arise.

Bengal Labour Welfare League.

154. Mr. SHRISH CHANDRA CHAKRAVERTI: (*a*) Will the Hon'ble Minister in charge of the Commerce and Labour Department be pleased to state if there is any organisation known as the Bengal Labour Welfare League? If so, who are its office-bearers?

(*b*) What are their names and where is its office situated?

(*c*) Is the said organization subsidised by the Government with money? If so, what are the amounts of subsidies to it in each of the years of 1938 and 1939?

(*d*) Who drew the money and what is the name of the drawer?

(*e*) For which purpose was the money spent and what was the amount of money spent for each of the purposes?

(*f*) Is it a fact that in the month of August, 1939, Messrs. A. L. Basil and H. C. Barbaer instituted a rent suit No. 11280 of 1939 in the Court of Small Causes, Calcutta?

(*g*) Is it a fact that in his judgment delivered on the 30th September, 1939, the Hon'ble Judge declared that there was no existence of the Bengal Labour Welfare League?

MINISTER in charge of the COMMERCE and LABOUR DEPARTMENT (the Hon'ble Mr. H. S. Suhrawardy): (*a*) and (*b*) There was such an organization. Government now regard it as defunct. So far as Government is aware, the former office-bearers were President: Mr. B. C. Mondal, M.L.A. General Secretary: Mr. O. R. Surita. The former address of the office was 7, Hare Street, Calcutta.

(*c*) The League was subsidised by Government during 1937-38 and 1938-39, Government contribution being made according to the financial year and not by the calendar year. The League was granted the following amounts during those two years:—

		Rs.
1937-38	...	2,250
1938-39	...	15,000

No subsidy has been paid to it since the 1st of April, 1939, as it is regarded as defunct.

(*d*) The General Secretary of the League.

(*e*) The money appears to have been spent on establishment, travelling, equipment and upkeep of 11 schools in the labour areas and the upkeep of certain dispensaries. Government have been unable to obtain particulars of the amount of money spent on each of the items as the accounts have not yet been audited.

(*f*) and (*g*) I have no information.

Mr. HUMAYUN KABIR: Are we to understand that the Government granted to this Moslem institution without enquiring into the purposes for which the money was spent?

The Hon'ble Khwaja Sir NAZIMUDDIN: The purpose for which the money was going to be spent and has been spent is stated in the reply. The only thing is that as the accounts have not yet been audited, it is difficult to state the exact amount spent on each purpose.

Mr. HUMAYUN KABIR: With regard to answer (*g*), was it not possible for the Hon'ble Minister in spite of 15 days' notice to have this information from the judgment of the Small Cause Court?

The Hon'ble Khwaja Sir NAZIMUDDIN: That is a matter of opinion whether it was possible or not.

Mr. PRESIDENT: Apparently it was not possible.

Mr. HUMAYUN KABIR: Are we to understand that in Calcutta the Small Cause Court was so far away that this Government did not find it possible in 15 days to refer the matter to it?

The Hon'ble Khwaja Sir NAZIMUDDIN: That is not asking for information but an argument.

Mr. PRESIDENT: Yes.

Debt Settlement Boards.

155. Mr. NUR AHAMED: (*a*) Will the Hon'ble Minister in charge of the Co-operative Credit and Rural Indebtedness Department

be pleased to state how many debt settlement boards have been established in Bengal up to 30th April, 1939?

(*b*) How many cases have been filed in these boards up to the 31st March, 1939?

(*c*) How many cases have been settled up to that date and for what amounts?

(*d*) How many cases are pending up to that date and for what amounts?

(*e*) How many cases are pending in the Chittagong district and for what amounts? How many cases have been settled up to that date and for what amounts?

(*f*) Is it a fact that owing to slow disposal of cases in Chittagong rural credit and trade have been more seriously affected in Chittagong district as compared with other districts?

(*g*) If so, what measure has the Government already taken and intends to take in future to restore rural credit and for speedy disposal of cases pending in the debt settlement of the Chittagong district?

(*h*) How many appeals have been filed in Chittagong before the Special Officer against the decisions of the debt settlement boards in Chittagong?

(*i*) In how many cases have the appeals been allowed and in how many cases have they been rejected?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: (*a*) 3,469. For items (*b*) to (*e*) figures as at 31st March, 1939, are not available: Figures are given for 31st July, 1939.

(*b*) 1,284, 383.

(*c*) 191,900 cases were settled; claims amounting to Rs. 8,52,95,766 were settled for Rs. 3,07,49,519.

(*d*) 759,661 cases; the sums involved in pending cases cannot be ascertained without an amount of labour which, I regret, I do not consider to be justified.

(*e*) 22,323 cases were pending; 6,489 cases were settled and awards were given amounting to Rs. 10,32,931.

(*f*) It is a matter of opinion.

(*g*) Does not arise.

(*h*) and (*i*) I regret that the information is not readily available but it will be communicated to the honourable member as soon as it is received from the local officers.

Administration of Debt Settlement Boards.

156. Mr. LALIT CHANDRA DAS: Will the Hon'ble Minister in charge of the Co-operative Credit and Rural Indebtedness Department be pleased to state—

(*a*) whether the establishment of the debt settlement boards have proved an utter failure in the economic rehabilitation of the agriculturists;

(*b*) whether it is a fact that these boards have killed rural credit in Bengal, and whether the Government is aware that the agriculturists find it extremely difficult to get money in the mufassal to meet the needs of their cultivation owing to the operation of the Agricultural Debtors Act;

(*c*) how many ordinary and special debt settlement boards including Central Bank special boards are now at work in Bengal and whether many cases were instituted before them and how many of the cases they have so far disposed of;

(*d*) whether it is a fact that instalments are allowed in many cases extending up to 20 years or more:

(*e*) what is the total sum of money for payment of which these boards have so far given awards and what was the total amount of the creditors' claims;

(*f*) whether there is any adequate machinery and sufficient authority given to these boards for realising the awarded money for the creditors;

(*g*) whether it is a fact that these awards remain awards without realisation and that settlement is really taken by the debtors as the wiping off of their debts;

(*h*) whether these debt settlement boards have got authority to try and dispose of debts under usufructuary mortgage bonds;

(*i*) whether Government is aware that it was found in many cases that these boards entertained such cases which the appellate court found they had no jurisdiction to try;

(*j*) whether it is a fact that most members of the debt settlement boards do not know anything of elementary law;

(*k*) whether Government proposes to transfer the work of the debt settlement boards to the civil court;

(*l*) whether Government is aware that some debt settlement boards for avoiding appeals against their decisions falsely note in their orders that the awards have been given on a compromise between the parties in the suit;

(m) whether the Government proposes to take steps to prevent such things;

(n) if the answer to part (l) is in the negative, whether the Government proposes to make an enquiry in the district of Tippera in the Special Officer's Court and in special courts of other districts to satisfy itself of the truth of the allegations; and

(o) when is the Agricultural Debtors Act due to expire and whether it is the intention of the Government to give it a further lease of life?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: (a) No.

(b) The honourable member is referred to reply to question No. 52 given on the 20th February, 1939.

(c) 3,651 ordinary and 219 special boards including the Central Bank special boards; 1,284,383 cases were instituted of which 531,103 had been disposed of up to the 31st July, 1939.

(d) No; instalments rarely extend up to 20 years. I am not aware of any case in which the period exceeded 20 years.

(e) Claims Rs. 8,52,95,766; awarded Rs. 3,07,49,519.

(f) No. The boards are prohibited from realising instalments due under the award; but the creditors may avail themselves of the provisions of section 28 (1) in cases of failure to pay instalments.

(g) No.

(h) Yes.

(i) No.

(j) No, that is not a fact.

(k) No.

(l) I am not aware of any such instance.

(m) Does not arise.

(n) No.

(o) No time fixed as to when the Act is due to expire and therefore the question of giving it a further lease of life does not arise.

The Bengal Money-lenders Bill, 1939.

Mr. PRESIDENT: The House will now resume further consideration of the Bengal Money-lenders Bill, 1939.

Rai Sahib INDU BHUSAN SARKER: Sir, the amendment which was moved by my honourable friend Rai Surendra Narayan Sinha

Bahadur was that in sub-clause *(13)* (*e*) of clause 2 of the Bill, the words "other than a promissory note" appearing in lines 3 and 4, be omitted. Sir, the sub-clause (*e*) runs thus:—

"An advance made on the basis of a negotiable instrument as defined in the Negotiable Instruments Act, 1881, other than a promissory note."

Sir, the latter portion of this sub-clause, namely, "other than a promissory note" should be omitted. That is what I have suggested in my amendment.

In support of this I have to say that a promissory note should be excluded from the operation of this Bill. Money urgently required, specially for business, is obtained on promissory notes. It will mean a heavy setback to business if the Bill is made applicable to advances on promissory notes. Under all systems of law, realisation of moneys payable on promissory notes has been attempted to be made smooth and quick, as will appear from the provisions of Chapter XXXVII of the Code of Civil Procedure. If promissory notes are brought within the operation of this Bill there will be a direct blow to the development of business.

Sir, it is common-sense to expect that when a man finds a difficulty he will have to procure money without much delay to meet his obligations and also to overcome some difficulties. Promissory notes are the direct offspring of the system of getting money within a reasonably short period. And if it is now included within the purview of this Bill, then the difficulty will be that whenever a man will be in trouble, he will not have any money and thus he will not be able to overcome his difficulties. So, to obviate this, I support that this should be excluded from the purview of this Bill.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose the motion, and I do not think any argument is necessary.

Mr. PRESIDENT: The question before the House is: that in sub-clause *(13)*(*e*) of clause 2 of the Bill, the words "other than a promissory note" appearing in lines 3 and 4, be omitted.

(The amendment was negatived.)

Mr. KAMINI KUMAR DUTTA: Sir, I beg to move that in sub-clause *(13)* of clause 2 of the Bill, the following explanation be added at the end, namely:—

"*Explanation.*—A supply of goods on credit is not a loan."

Sir, this amendment I move to remove all misapprehensions as to the ordinary transactions which consist of supply of goods on credit.

I may say, Sir, that in every-day activity of our life we take goods on credit and if this should be included within the category of loans, people would be very reluctant to supply goods on credit. In order that there may not be any doubt in the minds of dealers or suppliers of goods, I move the amendment to make it clear beyond any possible doubt that supply of goods on credit should not come within the scope of this Bill.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*13*) of clause 2 of the Bill, the following explanation be added at the end, namely:—

"*Explanation.*—A supply of goods on credit is not a loan."

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose it. I say, Sir, that the term "loan" has been defined as an advance carrying interest, and except in very rare instances, goods are sold on credit without interest being charged. Sir, I do not believe that there will be any difficulty in our ordinary day-to-day purchase and supply of goods; but if in future we find that the people are experiencing any difficulty in the matter, we will not hesitate to bring in an amending Bill to counteract any difficulty which may crop up in future. I hope my friend will therefore withdraw his motion.

Mr. HUMAYUN KABIR: Sir, there is only one difficulty in what the Hon'ble Minister has said. In certain cases, goods are advanced and a period of time is allowed during which no interest is charged, say, 15 days' sight or one month's sight or 3 months' sight. But if the money is not paid within that time and an extension is taken, it is optional on the part of the seller to charge interest or not. In many cases, it proves difficult for people who have dealings with business firms to clear the amounts exactly when the date was first stipulated, and it is normal to have an extension of time by mutual arrangement between the parties. Of course, if there is no mutual arrangement, the seller will have the right to charge interest, but in many cases the time is extended by mutual arrangement without charging any interest. Now, what will happen in such cases? Will these transactions be regarded as loans or will they be regarded as pure and simple sale transactions? If that difficulty is obviated, there will not be any pressure from this side of the House with regard to this amendment.

Khan Bahadur ATAUR RAHMAN: Sir, I had a similar amendment but I have withdrawn it because of the fact that already "commercial loan" has been excluded from the scope of this Bill. But if it becomes a loan by extension of time and interest is charged,

it becomes a commercial loan and not like other loans. So, I do not think that there is any necessity in adding these words and pressing this motion.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I submit that the definition of the term "loan" as is provided in the Bill, is sufficiently clear and sufficiently elastic to cover this case. If we accept the amendment, the definition would be too rigid and artificial and might lead to evasion. We cannot say generally that no credit sale is a "loan". Whether the supply of goods on credit is a loan or not must depend on the circumstances of each particular transaction, and the circumstances should be tested by the general definition of the term "loan" as it stands in the Bill. A "loan" is an advance on condition of repayment with interest. This is clear enough and would answer all purposes. I find that in the English Money-lenders Act, credit sale has never been treated like this and there are cases to show that whether a credit sale is a loan or not must depend on its particular circumstances. We should, therefore, leave it to the parties and ultimately to the court to decide it. The test laid down in the general definition is sufficient. A too rigid definition has its difficulties. In these circumstances, I think, Sir, that the amendment should not be pressed to a division.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*13*) of clause 2 of the Bill, the following Explanation be added at the end, namely:—

"*Explanation.*—A supply of goods on credit is not a loan."

(The amendment was negatived.)

Mr. W. B. C. LAIDLAW: Sir, before I formally move my amendment, I would like to make two drafting changes in my amendment. Instead of "(*h*)" it should be "(*i*)" and instead of the word "transacted" it should be "listed".

Mr. PRESIDENT: Please move your amendment now

Mr. W. B. C. LAIDLAW: Sir, I beg to move that in sub-clause (*13*) of clause 2 of the Bill, after paragraph (*h*), the following new paragraph be inserted, namely:—

"(*i*) A loan or debenture in respect of which dealings are listed on any Stock Exchange."

Sir, in suggesting this exclusion let me begin by expressing sympathy for the avowed object of the Bill—protection of the small man—the *raiyat*, the petty trader and the ranks of industrial labour.

But in their zeal for righting the wrongs done to such persons, the members of the Select Committee to whom the Bill was referred in another place sought to extend the measure in a manner which would have frozen the whole commerce and credit of the province.

In the passage of the Bill through another place, the counterpart of this group was instrumental in being able to secure the exclusion from the scope of the Bill of most of those enterprises whose inclusion would have been so disastrous. Among these exclusions were commercial loans, but at that time it was not realised that all concerns who had debenture issues regularly raised, quoted and dealt with on a Stock Exchange, might not necessarily come within the term "commercial loan" as defined in the Bill. It is to rectify this lacuna that I move this amendment.

This amendment aims only at protecting the credit of the province against the damaging result which would ensue in the event of debentures which might not strictly come within the definition of commercial loans falling within the ambit of this Bill.

The amendment does not detract from the beneficial effect of the Bill which aims at protection of the poor. I have ascertained that loans cannot be quoted on a Stock Exchange for public dealing until the terms have been examined and passed by the Stock Exchange Committee. It would therefore be ludicrous to suppose that the exclusion of such a loan could place any hardship on that class of debtor whom the Bill is intended to protect.

On the other hand, if large scale finance for purposes other than commerce were, by accidental interference, inhibited, development of the country would be hindered and the upshot would be hardship upon the very people that the Bill is intended to benefit.

It will be realised, moreover, that the amendment deals with money borrowed from the general public, a totally different matter from borrowings from individual money-lenders.

I trust that the House will feel that this is a non-controversial matter affecting only the general public as subscribers to a loan and the general public as the beneficiaries of development.

I trust, therefore, that the amendment will receive general support of all parties.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*13*) clause 2 of the Bill, after paragraph (*h*), the following new paragraph be inserted, namely:—

"(*i*) A loan or debenture in receipt of which dealings are transacted on any Stock Exchange."

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I rise to accept this amendment. The reasons that have been given by the mover of the amendment are quite obvious and known to everybody and if this is not accepted, then the country will lose a lot of its credit and what we really desire is that the existing system of credit should not be violently disturbed. So, I accept this amendment.

Mr. KAMINI KUMAR DUTTA: Sir, I rise to oppose the amendment. Indeed, the alacrity with which the Hon'ble Minister in charge of the Bill has accepted the amendment has come as a surprise to us. There are some inconsistencies in the Bill to which we have referred many a time, but this amendment seems to be the climax of such inconsistency. Debentures and loans in respect of which dealings are transacted on the Stock Exchange are ordinarily, in 99 per cent. of the cases, loans of the class which have been excluded from the operation of this Bill, being treated as commercial loans. If in some rare instances these dealings would not come within the definition of the term "commercial loan," there is absolutely no reason why that particular loan which is not really a commercial loan and would come within the category of an ordinary loan should not be brought within the operation of this Bill. No reason has been assigned either from the side of the mover or from the side of Government to convince us that there is need to accept an amendment of this particular character. It may be, as already it is in the air, that this amendment is intended to protect some particular interest or institution or particular transaction. We think, Sir, that the Legislature is not the place where the particular interest of any particular institution is to be served and legislative power is to be abused for that particular purpose. The debentures or loans which are transacted on the Stock Exchange have already been excluded by excluding "commercial loans". Then, why this particular anxiety, to have this exclusion again? Apparently, the underlying object of this amendment is that there are some loans which under the cloak of debenture loans are not really commerical loans but ordinary loans advanced to persons as ordinary money-lenders do. If there are transactions of that character, I would appeal that the House should not be made to serve the interest of a particular community or of a particular transaction.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, in view of the fact that no adequate reasons have been advanced in the speeches either in support of or in opposition to the amendment and specially in view of the fact that a very respected member of this House wants to have definite reasons in favour of the amendment before supporting it, it

would be our duty to explain some reasons which have induced us to support the amendment. At one time, it was supposed by some of our friends that these loans and debentures which are listed on the Stock Exchange are issued by individual persons but a careful enquiry by my humble self in the offices of the Stock Exchange Association, Limited, and the well-known firm of Messrs. Place, Siddons and Gough, brokers, has disclosed the fact that the loans and debentures in question are invariably those issued by limited companies. They are never issued by individuals. Those issued by firms and individuals are never listed on the Stock Exchange. Then, another important fact which came out during the enquiry was this. There are documents relating to the loans detailing the terms and these documents are widely published in the papers and in other ways. Then, these documents are deposited with the Registrar of Joint Stock Companies and are always open to inspection by any person. Before replying to my enquiries, the Stock Exchange Association, Limited, held a special meeting and the Secretary has communicated the considered views of the Association to me. I have his letter and that of Messrs. Place, Siddons and Gough with me. As has been mentioned by Mr. Laidlaw, these terms are carefully examined by the Stock Exchange Association before they allow dealings on the Stock Exchange. For that purpose, a general meeting of the Association is held and very astute businessmen carefully consider the terms of the loan, its possible effect on the Market, its soundness and other factors. They allow such loans and debentures to be listed on the Stock Exchange only after very full and careful examination and enquiries and only when they are thoroughly satisfied that they are safe and sound.

Now, Sir, this permission to deal in the approved loans and debentures on the Stock Exchange amounts to a certificate and a guarantee that they are absolutely sound and they could be freely bought and sold by persons in the open market with reasonable safety without any further enquiries. That leads me to consider the effect of this guarantee on probable buyers. Let us suppose that a loan or a debenture was issued and subscribed in 1900 and a particular lot of it was successively sold in 1910, 1920, 1930 and in 1940. This is a very simple case. If this loan or debenture is allowed to come within the mischief of this Bill, the result would be that in forty years the interest alone would wipe out the principal advanced and something further might have to be refunded to the Company issuing the loan or the debenture. The question would be who would suffer the loss? The last buyer, or the intermediate buyers or the original subscriber? Then, we must take into account another normal factor in the Stock Exchange. There are many intermediate buyers who hold the loans or debentures on blank transfers. It is often the case that they do not register their names as buyers in the respective offices and such blank transfers actually go on indefinitely for indefinite periods. It would

be practically impossible to equitably distribute the forfeited amount and the loss among the various buyers who have really enjoyed the interests. Any one receiving them more than three years before the attempt, will claim the bar of limitation. The result would be that the last buyer alone would be ruined. It is unthinkable that a *bona fide* purchaser for value buying in the open market a loan or a debenture which was certified to be safe and sound by an official body of experts should be stranded like this. People in foreign countries and people living outside the province might buy them, and it would be extremely difficult to ascertain their legal position. Suppose a man in Bombay buys the loan or the debenture in Calcutta. He might buy it in the Bombay market and might have even registered it in the Bombay register. There would be tremendous legal difficulties in making him liable. In these circumstances, persons who have spent good money, and have even paid a heavy premium on the issue price, would be absolutely stranded. And these loans and debentures are often bought by religious societies, by charitable societies, educational institutions, libraries and numerous other similar institutions for their reserve fund or for a regular permanent income, and they will all be ruthlessly stranded. It is suggested that a big party is concerned. I do not wish to name any party in this House. It is also whispered that the other side is also a big party. It is then a fight between big parties, but we are not to take sides in a fight like this. In legislating, we must not be obsessed by individual cases. We are to guide ourselves by sound principles. Should we honestly allow dealings on the Stock Exchange in loans and debentures which are certified by the Stock Exchange and which are freely bought and sold in the open market to be thus reopened? If we did, the result would be disastrous. It would very seriously affect Bengal's credit in the world market. Bengal's industries will never be able to raise loans to tide over a difficulty. Everybody will be afraid of Bengal. The repurcussions will be disastrous. In a serious situation like this, we are not to consider individuals. We must rather consider the general effect of a provision on the public at large. So far as we are concerned, we are perhaps too small for the great parties indicated. The parties are too big for us and we have never been approached by any of them. We have never been apprised of their respective merits. We are, therefore, left to decide matters on general principles without private negotiation. We have decided many other provisions of the Bill without negotiation from great parties. We have not been though big enough in other negotiations in connection with this Bill. In these circumstances, I submit that the amendment is sound on principle whatever may be the effect on the big parties whispered about. It is a fight between two parties for securing tactical positions. Each is, perhaps, strong enough to bear the strain. We must, therefore, ignore such obscure and private considerations. The Legislature should not lend its ears to private

speculations of this kind. If this amendment is not accepted, a loan issued on sound lines would never be subscribed. If the amendment is not put in, foreign companies—an object of dislike in certain quarters—will gain at the expense of numerous Indian and foreign buyers in these loans by the very act of opposition to the amendment. It is not at all a question of Indian *versus* foreign interests. It is a question of sound principle against no principle. With these few words, I support this amendment.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*13*) of clause 2 of the Bill, after paragraph (*h*), the following new paragraph be inserted, namely:—

"(*i*) A loan or debenture in respect of which dealings are listed on any Stock Exchange."

The House then divided with the following result:—

AYES—28.

Ahmad, Khan Bahadur Naziruddin.
Ahmed, Mr. Mesbahuddin.
Baksh, Mr. Kader.
Bose, Rai Bahadur Manmatha Nath.
Chowdhury, Khan Sahib Abdul Hamid.
Chowdhury, Mr. Khorshed Alam.
Chowdhury, Mr. Hamidul Huq.
Cohen, Mr. D. J.
D'Rozario, Mrs. K.
Ellahi, Khan Bahadur S. Fazal.
Haider, Nawabzada Kamruddin.
Hossain, Mr. Latafat.
Hunter, Mr. H. C. A.
Huq, Khan Bahadur Syed Muhammad Chaziul.
Khan, Khan Bahadur Muhammad Asaf.
Khan, Maulana Muhammad Akram.
Laidlaw, Mr. W. B. C.
Molla, Khan Sahib Subidali.
Momin, Begum Hamida.
Ormond, Mr. E. C.
Rahman, Khan Bahadur Ataur.
Rashid, Khan Bahadur Kazi Abdur.
Ross, Mr. J. B.
Sarker, Rai Sahib Indu Bhusan.
Sen, Rai Sahib Jatindra Mohan.
Shamsuzzoha, Khan Bahadur M.
Singh Roy, Mr. Saileswar.
Sinha, Raja Bahadur Bhupendra Narayan, Nashipur.

NOES—6.

Chakraverti, Mr. Shrish Chandra.
Datta, Mr. Bankim Chandra.
Goswami, Mr. Kanai Lal.
Kabir, Mr. Humayun.
Maitra, Raja Bahadur Brojendra Mohan.
Pal Choudhury, Mr. Ranajit.

Mr. PRESIDENT: Order, order. The House has divided. The "Ayes" being 28 and the "Noes" 6, the amendment is carried.

Mr. NUR AHMAD: Sir, I want to move my amendment in an altered form. I want to omit the words "or an arbitrator under the Co-operative Societies Act of 1912."

Mr. PRESIDENT: You want to omit those words from your amendment?

Mr. NUR AHMAD: Yes, Sir.

Sir, I beg to move that for sub-clause (*22*) of clause 2 of the Bill, the following be substituted, namely:—

"(*22*) 'Suit' includes any proceeding taken for the recovery of a loan before any competent court, any person exercising the powers of a court, any person deciding a dispute or a liquidator and also includes an appeal."

Sir, my object in moving this is as follows:—I find that the term "suit" has been defined in this Bill. But it has been defined in such a way that it excludes many things from that definition. I hope I shall be excused by Mr. Ormond. He is of opinion that no definition should be given. But, I think, definition should be given and that definition should be all-comprehensive so that difficulty may not arise in future. In other provisions of the Bill, it will appear that power is given in cases of other proceedings also, as for example, execution proceedings. But the word "suit" has been defined in such a way that it excludes execution proceedings also. A "suit" should refer to any proceeding before an arbitrator or to any person for final decision. Unless the definition is changed, there will be difficulty. With these few words, I commend my motion to the acceptance of the House.

Mr. PRESIDENT: Amendment moved: that for sub-clause (*22*) of clause 2 of the Bill, the following be substituted, namely:—

"(*22*) 'Suit' includes any proceeding taken for the recovery of a loan before any competent court, any person exercising the powers of a court, any person deciding dispute or a liquidator and also includes an appeal."

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I would ask my friend to consider this. Khan Bahadur Nazir-uddin Ahmad has suggested in his amendment No. 154A that in sub-clause (*23*) of clause 2 of the Bill, after the words "pending on that date" in lines 3 and 4, the words "and includes a proceeding in execution" be inserted. I think that if I accept this, this will cover my friend's case. Further, my friend's definition does not clearly mean that the proceedings in execution are covered by his definition. The real difficulty that we may experience with regard to the existing definition is that one may say that proceedings in execution are not included in it. So, I am accepting amendment No. 154A. I hope that my friend will withdraw his motion as that amendment will meet the case.

Mr. NUR AHMAD: Sir, in view of the statement made by the Hon'ble Minister in charge, I beg leave of the House to withdraw my motion.

Mr. PRESIDENT: Is it the pleasure of the House to permit Mr. Nur Ahmad to withdraw his mothion? (Cries of "No objection.")

The motion of Mr. Nur Ahmad was then, by leave of the House, withdrawn.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move that in sub-clause (23) of clause 2 of the Bill, after the words "pending on that date" in lines 3 and 4, the words "and includes a proceeding in execution" be inserted.

It is really a redraft of the amendment which has been proposed by Mr. Nur Ahmad and has just been withdrawn. I take no credit for initiating this amendment but the credit really belongs to Mr. Nur Ahmad. I submit, Sir, that this amendment should be accepted.

Mr. PRESIDENT: Amendment moved: that in sub-clause (23) of clause 2 of the Bill, after the words "pending on that date" in lines 3 and 4, the words "and includes a proceeding in execution" be inserted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that in sub-clause (23) of clause 2 of the Bill, after the words "pending on that date" in lines 3 and 4, the words "and includes a proceeding in execution" be inserted.

(The amendment was agreed to.)

The question before the House is: that clause 2, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 3.

Mr. PRESIDENT: Clause 3 stand part of the Bill.

Mr. HUMAYUN KABIR: Sir, I beg to move that for clause 3 of the Bill the following be substituted, namely:—

"3. The Provincial Government shall, by notification in the Official Gazette, declare a bank to be a notified bank for the purposes of this Act which complies with such conditions as the Provincial Government may, with the approval of the Provincial Legislature, prescribe by rules made under this Act and not inconsistent with the provisions of this Act."

Now, Sir, if you compare this draft which I have proposed with the clause as provided in the Bill, you will notice that there is not much difference between the two drafts. The Government proposal reads as follows:—

"The Provincial Government may, by notification in the Official Gazette, declare any bank to be a notified bank for the purposes of this Act:

Provided that no bank shall be so declared to be a notified bank unless it complies with such conditions as the Provincial Government may, with the approval of the Provincial Legislature, prescribe by rules made under this Act and not inconsistent with the provisions of this Act."

I think that the Government draft is very queer, because it provides that there will be certain conditions and rules made by the Provincial Government with the approval of the Provincial Legislature. A bank may satisfy these conditions and rules and yet it will be open to the Provincial Government to notify such a bank or not. In other words, even after the bank has satisfied the conditions which are provided under the rules made by the Government, it will be within the competence of the Government not to notify such a bank. I do not understand why this sort of residuary power should remain with the Government. If the Government make certain rules and make it absolutely clear that any bank which fulfils these rules will be notified, why should there be a further loophole left for Government to say that even after the rules have been satisfied, certain banks may be left out? In other words, a question of the personal predilections of the members of Government might come into play in such a case, and I submit that the amendment which I have suggested, the alternative draft which I have placed before the House to-day, is really based upon that apprehension. It takes practically all the items which are provided in the Government draft and makes only one alteration. Instead of making it optional on the part of the Government to notify a bank or not, it makes it obligatory on the part of the Government to notify a bank as soon as the conditions have been satisfied.

Now, Sir, let the Government make the rules as stringent as possible: let the scrutiny be as minute and accurate as they want it to be. Why do they want over and above that the option of refusing to notify a bank if it satisfies these conditions? This immediately creates suspicion in our minds and I think, Sir, I shall not be expressing the opinion of myself alone but of many other members of this House when I say that we are not prepared to leave this sort of residuary power in the hands of the Government. In the Lower House, this question was discussed time after time. Why is it that the Ministers are so particularly anxious to have this power of notification in their

own hands? Why do they not say, "We have laid down these rules and if they are satisfied, the bank will be notified and if they are not satisfied, the bank will not be notified?" I am reminded of an amendment which was moved in another place. Let these rules be framed by the Reserve Bank or let Provincial Government itself frame the rules and conditions, but let the notification be in the hands of the Reserve Bank. Why is it that the Government want to have this power in their own hands? Now, Sir, the Hon'ble Minister may say that this question expresses lack of confidence in the Ministers. Certainly we have lack of confidence in these Ministers, and it will not do to say that the Ministers enjoy the confidence of the majority of the members of this House or of another place. If such a question of competence, honesty or otherwise of the Ministers be raised even in the mind of one single member, I think that it is the duty of the Ministers to take steps to see that such apprehensions or suspicions are removed. It is in the interests of the Ministers themselves to be above suspicion. There is that famous saying that Caesar's wife should always be above suspicion. It may be that the suspicion is unfounded and that we are really not justified in having the suspicion about the *bona fides* of the Ministers when they want to have the power of notification in their hands. It may be that it is unjust on our part to attribute any motive in the minds of the Ministers. Even if it be unjust, once the apprehensions are there, once the suspicion has been expressed, once it has become general before the public in Bengal, I think it is in the interests of the Ministers themselves not to keep this power in their hands. Why should they deliberately do a thing which is capable of misrepresentation and unfair interpretation? After all, in this question there are many many issues involved. There will be large transactions and I do not understand why after all these apprehensions have been raised, the Minister should still insist on keeping the power of notification in the hands of the Government. If they accept my amendment, it does not in any way take away their powers. Under my amendment also, the rules will be framed by the Provincial Government. Under my amendment also the rules will have to be accepted and approved by the Provincial Legislature. So far, there is no difference between the Bill clause and the draft amendment which I have proposed. The only difference is that once the conditions are laid down, once these conditions are satisfied, once everybody knows——

Mr. PRESIDENT: The honourable member has made that point quite clear.

Mr. HUMAYUN KABIR: If you think that I have made myself quite clear, I accept that, Sir, and I make no further remarks in this connection but expect that the House as a whole will accept this amendment.

Mr. PRESIDENT: Amendment moved: That for clause 3 of the Bill the following be substituted, namely:—

"3. The Provincial Government shall, by notification in the Official Gazette, declare a bank to be a notified bank for the purposes of this Act which complies with such conditions as the Provincial Government may, with the approval of the Provincial Legislature, prescribe by rules made under this Act and not inconsistent with the provisions of this Act."

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, my friend has missed the whole point. If he says individual banks shall be declared to be notified banks without any discretion being left to the Minister, he probably has not read the third line of his own amendment carefully which says "which complies with such conditions." To whose judgment will that be left as to whether a particular bank has fulfilled the conditions? There will have to be the judgment of the Minister and you cannot avoid it. Suppose, a Minister is dishonest. Can he not say that the conditions have not been fulfilled? How will it improve your case? On the other hand, if the word "may" exists there, the Minister will have to be very cautious. He will think that he is responsible to the country, that power rests with him and that he should not misbehave. So, whatever argument my friend has advanced goes against him. Sir, I oppose the amendment.

Rai Sahib JATINDRA MOHAN SEN: I only want to say just a few words in connection with this motion. I find that in the Reserve Bank of India Act, in clause (6) of section 40 which was quoted yesterday in a similar case, the language is this: "The Governor-General in Council shall by a notification in the 'Gazette of India' etc." There, we find not the word "may" but the word "shall" and there is, therefore, to my mind a justification for the insertion of the word "shall" in place of the word "may". It is not a question of misapprehension. It is not a question whether a particular Minister or the members of the Government are viewed with suspicion or not. But the Legislature ought to see that the language of a section is so clear that there should be no doubt left in the minds of outsiders. So, in a matter like this, the language should be made absolutely clear and the fact that the Central Legislature in a matter like this has used the word "shall" instead of the word "may", ought to be a justification for the insertion of the word "shall" in place of the word "may".

With regard to the other question that the matter will ultimately be left in the hands of the Minister, I do not say that ultimately the

matter will not be in the hands of the Minister. The Minister will be the final authority in a matter like this, but still there is no reason why we should not follow the language used in the Reserve Bank of India Act and use the word "may" which may leave some suspicion in the minds of members inside the House as well as the general public outside.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to submit that the word "shall" is misplaced in the amendment. The amendment says that if a bank complies with the conditions laid down, then that bank "shall" be notified. These conditions, I am afraid, cannot be mathematically accurate and rigid and are incapable of clear and precise definition which would not leave any room for doubt. The conditions prescribed must, in the nature of things, leave room for the exercise of discretion. The conditions would be elastic and it would be very difficult for any Minister to say with any certainty that a certain bank has complied with conditions which are essentially elastic. So, the word "shall" will be most inappropriate. The word "may" is more appropriate in the circumstances. Personally, I am against inclusion of banks in the exception. I am in favour of further exclusion even of scheduled banks which are really nothing better than ordinary usurious money-lenders, but masquerading as scheduled banks. Having held that view, I should think that we should be against an easy inclusion. In these circumstances, I should submit that the word "may" would serve our purpose better. The word "shall" will have no particular significance in view of the discretion which must necessarily be placed in the Minister in the matter.

Mr. PRESIDENT: The question before the House is that for clause 3 of the Bill the following be substituted, namely:—

"3. The Provincial Government shall, by notification in the Official Gazette, declare a bank to be a notified bank for the purposes of this Act which complies with such conditions as the Provincial Government may, with the approval of the Provincial Legislature, prescribe by rules made under this Act and not inconsistent with the provisions of this Act."

The House then divided with the following result:—

AYES—5.

Dutta, Mr. Kamini Kumar.
Goswami, Mr. Kanai Lal.
Kabir, Mr. Humayun.
Pal Chaudhury, Mr. Ranajit.
Sen, Rai Sahib Jatindra Mohan.

NOES—24.

Ahmed, Khan Bahadur Nazimuddin.
Ahmed, Mr. Mesbahuddin.
Ahmed, Mr. Nur.
Baksh, Mr. Kader.
Barua, Dr. Arabinda.
Chowdhury, Khan Sahib Abdul Hamid.
Chowdhury, Mr. Khorshed Alam.
Chowdhury, Mr. Hamidul Huq.
Cohen, Mr. D. J.
D'Rozario, Mrs. K.
Ellahi, Khan Bahadur S. Fazal.
Haider, Nawabzada Kamruddin.
Hossain, Mr. Latafat.
Hunter, Mr. H. C. A.
Huq, Khan Bahadur Syed Muhammad Ghaziul.
Khan, Khan Bahadur Muhammad Asaf.
Khan, Maulana Muhammad Akram.
Laidlaw, Mr. W. B. C.
Molla, Khan Sahib Suffiuddin.
Momin, Begum Hamida.
Rahman, Khan Bahadur Ataur.
Scott-Kerr, Mr. W. F.
Shamsuzzoha, Khan Bahadur M.
Singh Roy, Mr. Saileswar.

Mr. PRESIDENT: Order, order. The House has divided. The "Ayes" being 5 and the "Noes" being 24, the amendment is negatived.

Mr. KAMINI KUMAR DUTTA: Sir, I beg to move that for clause 3 of the Bill, the following be substituted, namely:—

"3. The Provincial Government shall by notification in the Gazette declare any Bank to be a notified Bank for the purposes of this Act which may be recommended by the Reserve Bank of India or which complies with such conditions as the Provincial Government may with the approval of the Provincial Legislature, prescribe by rules made under this Act."

Sir, my object in moving this amendment in spite of the fate of the last amendment is this, that the present amendment is not exactly akin to the last one. Here, I move that not only the banks which comply with the conditions as may be laid down by Government should be recognised as notified banks but also the Reserve Bank which is the most competent body to express an opinion in this respect should be given the authority for declaring which of the banks are competent to be notified. So, in this amendment, I have moved that both the Reserve Bank and the Government should be given the power to notify the banks which will either be able to comply with the conditions laid down by Government or which may be thought competent and efficient by the Reserve Bank to be entitled to be notified.

Mr. PRESIDENT: Amendment moved: that for clause 3 of the Bill, the following be substituted, namely:—

"3. The Provincial Government shall by notification in the Gazette declare any Bank to be a notified Bank for the purposes of this Act which may be recommended by the Reserve Bank of India or which complies with such conditions as the Provincial Government may with the approval of the Provincial Legislature, prescribe by rules made under this Act."

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose this motion. It means delegation of the power of Government to the Reserve Bank. The Reserve Bank of India has nothing to do with the question of fixation of the rate of interest or control of the money-lending operations of banks. That part of the work rests with the Provincial Government. So, I do not see how the Reserve Bank, which has no power to regulate the money-lending operations of a bank, can recommend certain banks to be "notified" under this Bill. I think that is not a sound proposition, and I hope my honourable friend will kindly withdraw his motion.

Rai Sahib INDU BHUSAN SARKER: Sir, I rise to support this amendment moved by Mr. Kamini Kumar Dutta. This amendment seeks to give authority to the Reserve Bank also to declare a bank as a notified bank. There is nothing repugnant in the idea of vesting the Reserve Bank with such powers for, being the apex of the country's banking structure, it alone possesses the requisite expert knowledge to adjudge the intrinsic position of a bank to be declared as a notified bank. Therefore, Sir, I think that the Reserve Bank is competent enough to give its verdict as to the suitability or otherwise of a bank being declared as a notified bank.

Sir, the Hon'ble Nawab Bahadur in his reply said that the Reserve Bank has not got the power of fixing the rate of interest. The amendment says that the Provincial Government shall by notification in the Gazette declare any bank to be a notified bank which may be recommended by the Reserve Bank of India or which complies with certain conditions. So, if the power of fixing the rate of interest is not vested with the Reserve Bank and it is vested entirely with the Provincial Government, then with that exception, regarding suitability or otherwise it is desirable that the Provincial Government should accept their recommendations as to which banks may be notified. With these words, Sir, I support the motion.

Mr. NUR AHMED: Sir, I rise to oppose the motion. I oppose it firstly because it will complicate matters inasmuch as in this amendment, it is said that rules will be framed by the Provincial Government, but judgment will be delivered by the Reserve Bank. I also oppose it on the ground that it will be tantamount to expressing no-confidence in our elected Ministers—in our popular Ministers—and thus it will be derogatory to this House to accept it. To-day, it is a Coalition Ministry; but to-morrow the Congress may be in power, and I ask the mover of this motion what will be the implication of this amendment in that case? It is true that this measure is being enacted by the present Ministry, but this Bill is going to be put on the statute book for all times. It will then be necessary to amend this provision. I also oppose it because the Provincial Government will

be in a better position to judge which banks should be notified than any outside authority can be expected to be. With these words, Sir, I oppose this motion.

Mr. PRESIDENT: The question before the House is: that for clause 3 of the Bill, the following be substituted, namely:—

"3. The Provincial Government shall by notification in the Gazette declare any Bank to be a notified Bank for the purposes of this Act which may be recommended by the Reserve Bank of India or which complies with such conditions as the Provincial Government may with the approval of the Provincial Legislature, prescribe by rules made under this Act."

(The amendment was negatived.)

Mr. MESBAHUDDIN AHMED: Sir, I beg to move that in the proviso to clause 3 of the Bill—

(*i*) the words "the Provincial Government" appearing in line 3, be omitted;

(*ii*) after the word "Legislature" appearing in line 4, the words "be prescribed" be inserted; and

(*iii*) the words "prescribe by rules made under this Act and not inconsistent with the provisions of this Act" appearing in lines 4 and 5, be omitted.

Mr. PRESIDENT: Amendment moved: that in the proviso to clause 3 of the Bill—

(*i*) the words "the Provincial Government" appearing in line 3, be omitted;

(*ii*) after the word "Legislature" appearing in line 4, the words "be prescribed" be inserted; and

(*iii*) the words "prescribe by rules made under this Act and not inconsistent with the provisions of this Act" appearing in lines 4 and 5, be omitted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that in the proviso to clause 3 of the Bill—

(*i*) the words "the Provincial Government" appearing in line 3, be omitted;

(ii) after the word "Legislature" appearing in line 4, the words "be prescribed" be inserted; and

(iii) the words "prescribe by rules made under this Act and not inconsistent with the provisions of this Act" appearing in lines 4 and 5, be omitted.

(The amendment was agreed to.)

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move that for the heading under Chapter II of the Bill, the following be inserted, namely:—

"Competent Courts and Procedure".

Mr. PRESIDENT: Amendment moved: that for the heading under Chapter II of the Bill, the following be inserted, namely:—

"Competent Courts and Procedure".

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that for the heading under Chapter II of the Bill, the following be inserted namely:—

"Competent Courts and Procedure."

(The amendment was agreed to.)

The question before the House is: that clause 3, as amended, stand part of the Bill.

(The motion was agreed to.)

Mr. PRESIDENT: The Home will now consider amendment No. 317.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose it.

Mr. NUR AHMED: May I ask the leave of the House to withdraw my amendment?

Mr. PRESIDENT: Has the honourable member the leave of the House to withdraw his amendment?

(The amendment was then, by leave of the House, withdrawn.)

Mr. PRESIDENT: The question before the House is: that clause 16, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 28.

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move that in sub-clause (*1*) of clause 28 of the Bill, for the word "assignee" occurring for the first time, the word "person" be substituted.

Sir, it is only a drafting amendment.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) of clause 28 of the Bill, for the word "assignee" occurring for the first time, the word "person", be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*) of clause 28 of the Bill, for the word "assignee" occurring for the first time, the word "person" be substituted.

(The amendment was agreed to.)

Mr. MESBAHUDDIN AHMAD: Sir, I beg to move that in paragraph (*b*) of sub-clause (*1*) of clause 28 of the Bill—

(*i*) the words "in the case" appearing in line 1, be omitted; and

(*ii*) for the word "and" appearing in line 4, the words "together with" be substituted.

Mr. PRESIDENT: Amendment moved: that in paragraph (*b*) of sub-clause (*1*) of clause 28 of the Bill—

(*i*) the words "in the case" appearing in line 1, be omitted; and

(*ii*) for the word "and" appearing in line 4, the words "together with" be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that in paragraph (*b*) of sub-clause (*1*) of clause 28 of the Bill—

(*i*) the words "in the case" appearing in line 1, be omitted; and

(*ii*) for the word "and" appearing in line 4, the words "together with" be substituted.

(The amendment was agreed to.)

The question before the House is: that clause 28, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 29.

Clause 29 stand part of the Bill.

The question before the House is: that clause 29 stand part of the Bill.

(The motion was agreed to.)

Mr. NUR AHMED: Sir, I beg leave of the House to withdraw amendment No. 482 standing in my name.

Mr. PRESIDENT: Is it the desire of the House that the honourable member may withdraw his amendment?

(No objection raised; the amendment was, by leave of the House, withdrawn.)

Mr. PRESIDENT: The House will now consider amendment No. 525.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose it.

Mr. PRESIDENT: The question before the House is: that sub-clause (*2*) of clause 30 of the Bill, be omitted.

(The motion was negatived.)

The question before the House is: that clause 30, as amended, stand part of the Bill.

(The motion was agreed to.)

Mr. PRESIDENT: The amendment before the House is No. 565. It has been moved already.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I oppose it.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*1*) (*a*) of clause 34 of the Bill, in paragraph (*i*) after the word "instalments" appearing at the end of line 6, the words "not exceeding twenty" be inserted.

(The amendment was negatived.)

Khan Bahadur NAZIRUDDIN AHMAD: Sir, I beg to move that after clause 34 of the Bill the following clause be inserted, namely:—

34A. Notwithstanding anything contained in any other law for the time being in force, the proclamation of the intended sale of property in execution of a decree passed in respect of a loan shall specify only so much of the property of the judgment-debtor as the Court considers to be saleable at a price sufficient to satisfy the decree, and the property so specified shall not be sold at a price which is less than the price specified in such proclamation:

"Sale of property in execution of decrees in respect of loans.

Provided that, if the highest amount bid for the property so specified is less than the price so specified, the Court may sell such property for such amount, if the decree-holder consents in writing to forego so much of the amount decreed as is equal to the difference between the highest amount bid and the price so specified."

Khan Bahadur NAZIRUDDIN AHMAD: Sir, this is something more than a drafting change. The idea was suggested by Mr. Kamini Kumar Dutta in his amendment No. 610. I do not claim any orginality for this. The idea is very sound, and this is simply the same thing in a slightly different form without change of sense. I, therefore, move this amendment, and I hope it will be accepted.

Mr. PRESIDENT: Amendment moved: that after clause 34 of the Bill, the following clause be inserted, namely:—

34A. Notwithstanding anything contained in any other law for the time being in force, the proclamation of the intended sale of property in execution of a decree passed in respect of a loan shall specify only so much of the property of the judgment-debtor as the Court considers to be saleable at a price sufficient to satisfy the decree, and the property so specified shall not be sold at a price which is less than the price specified in such proclamation:

"Sale of property in execution of decrees in respect of loans.

Provided that, if the highest amount bid for the property so specified is less than the price so specified, the Court may sell such property for such amount, if the decree-holder consents in writing to forego so much of the amount decreed as is equal to the difference between the highest amount bid and the price so specified."

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that after clause 34 of the Bill the following clause be inserted, namely:—

34A. Notwithstanding anything contained in any other law for the time being in force, the proclamation of the intended sale of property in execution of a decree passed in respect of a loan shall specify only so much of the property of the judgment-debtor as the Court considers to be saleable at a price sufficient to satisfy the decree, and

"Sale of property in execution of decrees in respect of loans.

the property so specified shall not be sold at a price which is less than the price specified in such proclamation:

Provided that, if the highest amount bid for the property so specified is less than the price so specified, the Court may sell such property for such amount, if the decree-holder consents in writing to forego so much of the amount decreed as is equal to the difference between the highest amount bid and the price so specified."

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 34, as amended, stand part of the Bill.

(The motion was agreed to.)

Schedule.

Mr. PRESIDENT: Schedule stand part of the Bill.

Khan Sahib ABDUL HAMID CHOWDHURY: Sir, my friend Khan Bahadur Naziruddin Ahmad is suddenly feeling very unwell, and he has requested me to read out his amendment No. 744A.

Mr. PRESIDENT: I shall read it: that at the end of the Schedule attached to the Bill, the words and figures "or under section 52 of the Indian Post Office Act" be added.

Amendment moved: that at the end of the Schedule attached to the Bill, the words and figures "or under section 52 of the Indian Post Office Act" be added.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that at the end of the Schedule attached to the Bill, the words and figures "or under section 52 of the Indian Post Office Act", be added.

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that the Schedule, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 1.

Mr. PRESIDENT: Clause 1 stand part of the Bill.

The question before the House is: that clause 1 stand part of the Bill.

(The motion was agreed to.)

Long Title and Preamble.

Mr. PRESIDENT: Long Title and Preamble be added to the Bill.

Mr. MESBAHUDDIN AHMED: Sir, I beg to move that in the Long Title of the Bill, for the word "transaction", the word "transactions" be substituted.

Mr. PRESIDENT: Amendment moved: that in the Long Title of the Bill, for the word "transaction", the word "transactions" be substituted.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I accept it.

Mr. PRESIDENT: The question before the House is: that in the Long Title of the Bill, for the word "transaction" the word "transactions" be substituted.

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that the Long Title, as amended, and the Preamble be added to the Bill.

(The motion was agreed to.)

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I beg to move that the Bill, as settled in the Council, be passed. It is usual, Sir, to deliver speeches on this occasion. But so many speeches have been delivered already that I do not think that I should take the time of the House any further——

Mr. RANAJIT PAL CHOUDHURY: On a point of order, Sir. Under rule 67 of the Bengal Legislative Council Procedure Rules, if any amendment is moved and carried on the same day, then the Bill cannot be passed on that day.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: The President can exercise his discretion in the matter, and I hope the Hon'ble President will kindly waive the rule. I am told, Sir, that the words used in the rules are not "on the same day" but "at the same meeting."

Mr. RANAJIT PAL CHOUDHURY: Rule 67(2) is absolutely clear on the point.

Mr. PRESIDENT: If there is a serious objection, it is very difficult for the President to exercise his discretion because it is such an important Bill and so many amendments have been made. The rule says: "If any amendment be made, any member may object to the passing of the Bill at the same meeting." It says, "same meeting" and not "same day". I would like to hear the Leader of the Opposition.

Mr. KAMINI KUMAR DUTTA: Sir, my position is this. As the rule is there, it may be reasonably expected that some of the members who are not in the House now may have gone away after some of the amendments were accepted naturally thinking that the Third Reading could not be taken up to-day. In this view of the matter, I think it only fair to observe the rule, because I find that some of the benches are quite empty. It is quite possible that many members might have thought that the discussion could not be taken up to-day.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Of course, that is a technical objection. Suppose this meeting is over just now and we commence another meeting after five minutes. Silence of five minutes will probably satisfy the condition laid down there to have another meeting.

Mr. KAMINI KUMAR DUTTA: Members have got to be intimated.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: You are raising another technicality. But I do not believe that you will gain anything by it.

Mr. RANAJIT PAL CHOUDHURY: We will have time for some putting in other amendments.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: There will be no more amendments. All the amendments have been disposed of.

Mr. RANAJIT PAL CHOUDHURY: According to the rules, we can put in some more amendments.

Mr. PRESIDENT: I have seen sub-section (5) of section 67. It says "shall be brought forward again at a future meeting, and may then be passed with or without further amendment." At present, I do not see how the question of other amendments may arise.

Mr. RANAJIT PAL CHOUDHURY: They may or may not arise, but it gives us another chance to put in some amendments and besides that, rule 67 (2) is clear.

Mr. PRESIDENT: As I have said, if there is objection from the Leader of the Opposition, and if he does not see his way to agree, it will be very difficult for the Chair to exercise his discretion in spite of the objection in view of the fact that many important amendments have already been carried at to-day's sitting. But it is for the Leader of the Opposition to consider it.

Rai Sahib INDU BHUSAN SARKER: On behalf of my party, namely, the Progressive Party, I say, Sir, that our leader and other members are absent now, and they are under the impression that the Third Reading cannot be taken up to-day.

Mr. PRESIDENT: Do you like to make further speeches?

Rai Sahib INDU BHUSAN SARKER: Yes, Sir.

Mr. PRESIDENT: I adjourn the Council for 15 minutes so that the leaders of different groups may come to an understanding among themselves.

(After adjournment.)

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I tried my best to come to an understanding with the Leader of the Opposition and his party, but I am sorry that I could not bring about any compromise. He raises the point that many members of his party are not present and that when the Third Reading is taken up of a Bill on such an important matter, it is desirable that members should be present and take part in the discussion. So, the next meeting may be held to-morrow at 9-30 a.m.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, the reason why the Council should meet to-morrow morning is that some members might like to go away by the afternoon train, if we could get the business finished.

Mr. RANAJIT PAL CHOUDHURY: Sir, we have no objection to that.

Mr. PRESIDENT: Order, order. A point of order has been raised whether the motion for the *passing* of a Bill can be taken up on the same day if amendments are carried. As there has been objection from the Leader of the Opposition and some other members, the Chair is reluctant to use its discretion in favour of suspending rule No. 67. This matter will be taken up next day, that is, to-morrow. To-morrow being a Friday, ordinarily it is a non-official day. I hope there will be no objection because every one is anxious to finish this Bill to-morrow, on condition that the Government will give one of their days in the next session for additional non-official work. I should like to hear Mr. Kamini Kumar Dutta.

Khan Bahadur ATAUR RAHMAN: Will the Hon'ble Minister be pleased to state whether he is willing to give concession in the next session, as proposed, of one more non-official day?

Mr. PRESIDENT: This is a special case. The Chair feels that even in case of such an important Bill as the Money-lenders Bill is, the rules should not be suspended. But the difficulty is that Monday is also a holiday and all the Muslim members of the House are most anxious to attend the "Id" festival which comes off on Sunday. It will not be possible for them to come back again on Monday or Tuesday. That is the reason why I am agreeable to accept to morrow as an official day and finish the business if there is no serious objection.

Mr. KAMINI KUMAR DUTTA: Sir, so far as my party is concerned, we have no objection to sit in the morning to-morrow. Friday is a day which, according to the rules, is to be devoted to non-official business. But I bow down to the observations made by you, Sir, considering the importance of the Bill and considering the further fact that the "Id" is coming on Sunday and it cannot be expected that my Muhammadan friends would be able to come again. On behalf of my party, I should like to say that we also agree that though to-morrow is Friday, it may be utilised for official business. At the same time, we would insist that Government should agree to allot to us an extra non-official day in the next session.

Rai Sahib INDU BHUSAN SARKER: Sir, on behalf of the Progressive Party, I accord my approval to come in the morning to-morrow.

Mr. H. C. A. HUNTER: Sir, I regret that some of our members will be necessarily absent to-morrow, as they have already made an engagement on the understanding that the Bill would be put through to-day. But if it is the wish of the House, we are willing to turn up in reduced numbers. We had also to put off our engagement to-day in order to attend this morning's session.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, as far as the question of providing an additional day for non-official business in the next session is concerned, I agree. But I would like to make a few observations in this connection so that this may not be taken as a precedent. I would just want to point out the real significance of the rules. The rule that has been provided is that ordinarily Friday will be a non-official business day. But with the consent of the President it may be used for Government business—even Friday. The rule in the House of Commons, as you know, and under the British Parliament is that there is a day fixed for non-official business, but if Government find that there is urgent Government business, that non-official day is appropriated. So, I would like to submit that in future you will exercise your judgment in this connection whenever necessary. If you are satisfied that the Government business is urgent, you will agree to allow that. I only want to make that position clear.

Sir, as regards the other three Bills, we might try and finish them to-day so that the whole of to-morrow may be devoted to the Money-lenders Bill.

Mr. PRESIDENT: We shall sit up to 12-30 and let us see how much progress can be made.

The Eastern Frontier Rifles (Bengal Battalion Amendment) Bill, 1939.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I beg to move that the Eastern Frontier Rifles (Bengal Battalion Amendment) Bill, 1939, as passed by the Assembly, be taken into consideration.

Sir, this is an absolutely formal Bill. There are no amendments, I believe. It is just a consequential Bill because of certain action that has been taken under the Adaptation Orders, and I hope the House will agree to passing this Bill without any discussion.

Mr. PRESIDENT: Motion moved: that the Eastern Frontier Rifles (Bengal Battalion Amendment) Bill, 1939, as passed by the Assembly, be taken into consideration.

The question before the House is: that the Eastern Frontier Rifles (Bengal Battalion Amendment) Bill, 1939, as passed by the Assembly, be taken into consideration.

(The motion was agreed to.)

Clauses 1, 2 and 3.

Mr. PRESIDENT: Clauses 1, 2 and 3 stand part of the Bill.

The question before the House is: that clauses 1, 2 and 3 stand part of the Bill.

(The motion was agreed to.)

Short Title and Preamble.

Mr. PRESIDENT: The Short Title and Preamble be added to the Bill.

The question before the House is: that the Short Title and Preamble be added to the Bill.

(The motion was agreed to.)

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I beg to move that the Eastern Frontier Rifles (Bengal Battalion Amendment) Bill, 1939, as settled in the Council, be passed.

Mr. PRESIDENT: The question before the House is: that the Eastern Frontier Rifles (Bengal Battalion Amendment) Bill, 1939, as settled in the Council, be passed.

(The motion was agreed to.)

The Bengal Public Demands Recovery (Amendment) Bill, 1939.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I beg to move that the Bengal Public Demands Recovery (Amendment) Bill, 1939, as passed by the Assembly, be taken into consideration.

Mr. PRESIDENT: Motion moved: that the Bengal Public Demands Recovery (Amendment) Bill, 1939, as passed by the Assembly, be taken into consideration.

(The motion was agreed to.)

Clause 1.

Mr. PRESIDENT: Clause 1 stand part of the Bill.

The question before the House is: that clause 1 stand part of the Bill.

(The motion was agreed to.)

Clause 2.

Mr. PRESIDENT: Clause 2 stand part of the Bill.

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I beg to move that for clause 2 of the Bill, the following be substituted, namely:—

"In clause (*a*), of sub-section (*1*) of section 22 of the Bengal Public Demands Recovery Act, 1913, the words beginning with the word "certificate" and ending with the word "deposit" be omitted.

Sir, this Bill aims at the abolition of double interest on the certificate amount from the date of proclamation of sale to the date of deposit when any person wants to set aside the sale of any immovable property by the procedure of certificate under the Public Demands Recovery Act, but does not exempt the payment of interest from the date of "proclamation" to the date of deposit. My amendment aims at payment of interest from the date of certificate to date of proclamation only after which the running of interest should cease. So, I propose that the amount of claim as settled and stated in the proclamation of sale should be final, unless fresh proceedings are necessary after sale for realization of the certificated amount. With these words, Sir, I beg to commend my motion to the acceptance of the House.

Mr. PRESIDENT: Amendment moved: that for clause 2 of the Bill, the following be substituted, namely:—

"In clause (*a*) of sub-section (*1*) of section 22 of the Bengal Public Demands Recovery Act, 1913, the words beginning with the word "certificate" and ending with the words "deposit", be omitted.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I rise to oppose this amendment. It conveys no meaning. I am afraid, the amendment has been misconceived and not properly drafted.

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, in view of what the Hon'ble Minister has said, I beg leave of the House to withdraw my motion.

Mr. PRESIDENT: Is it the pleasure of the House to permit Rai Surendra Narayan Sinha Bahadur to withdraw his motion.

(Cries of "no objecton".)

The motion was then, by leave of the House, withdrawn.

Mr. PRESIDENT: The question before the House is: that clause 2 stand part of the Bill.

(The motion was agreed to.)

Short Title and Preamble.

Mr. PRESIDENT: The Short Title and Preamble be added to the Bill.

The question before the House is: that the Short Title and Preamble be added to the Bill.

(The motion was agreed to.)

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Sir, I beg to move that the Bengal Public Demands Recovery (Amendment) Bill, 1939, as settled in the Council, be passed.

Mr. PRESIDENT: The question before the House is: that the Bengal Public Demands Recovery (Amendment) Bill, 1939, as settled in the Council, be passed.

(The motion was agreed to.)

The Bengal Agricultural Debtors (Amendment) Bill, 1939.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I beg to move that the Bengal Agricultural Debtors (Amendment) Bill, 1939, as passed by the Assembly, be taken into consideration.

Sir, in presenting this Bill to the House, I do not think any long speech is necessary at this stage. This Bill aims at rapid disposal of cases by the boards and also to remove certain difficulties which have been experienced by the boards in the course of their working. That is why this amending Bill has been introduced.

Sir, the clauses are very simple, and I hope it will not be difficult for the House to agree to the passing of the Bill. With these few words, I commend my motion to the acceptance of the House.

Mr. PRESIDENT: Motion moved: that the Bengal Agricultural Debtors (Amendment) Bill, 1939, as passed by the Assembly, be taken into consideration.

Rai Sahib INDU BHUSAN SARKER: Sir, we have so long been dealing with the Money-lenders Bill. So, if there is no objection, the Bengal Agricultural Debtors Bill may be taken up to-morrow, so that we may have some time to look into it. There are only three or four amendments, and it will not take more than an hour and will be finished positively to-morrow.

Mr. PRESIDENT: This Bill has figured on the Order Paper for the last three days and want of notice, I think, cannot really be urged now. It is the duty of honourable members to come prepared on all matters that are placed on the Order Paper.

Rai Sahib INDU BHUSAN SARKER: Sir, I respectfully solicit the favour of your postponing the matter till to-morrow. If it is taken up to-morrow, there will be no harm, because the Money-lenders Bill will be finished within half an hour.

Mr. PRESIDENT: I am sorry. This cannot be postponed now. I shall now put the question.

The question before the House is: that the Bengal Agricultural Debtors (Amendment) Bill, 1939, as passed by the Assembly, be taken into consideration.

(The motion was agreed to.)

Clause 1.

Mr. PRESIDENT: Clause 1 stand part of the Bill.

The question before the House is: that clause 1 stand part of the Bill.

(The motion was agreed to.)

Clause 2.

Mr. PRESIDENT: Clause 2 stand part of the Bill.

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I beg to move that clause 2 of the Bill be numbered as sub-clause (*1*) of clause 2 and the following sub-clause be added, namely:—

"(2) In clause (9) of section 2 of the said Act, 1935, the following proviso be added at the end, namely:—

Provided that no person shall be deemed to be a debtor under the said Act, who is not a *bonâ fide* agriculturist and whose income from agriculture is less than one-third of his total income".

Sir, my object in moving this amendment is that in the Statement of Objects and Reasons, the Hon'ble Minister has stated that one of the main reasons for bringing in this Bill is to exclude non-agriculturists from the purview of this Act. Of course, as the present rules stand, debt settlement boards will be able to take up cases only up to the limit of Rs. 5,000 and cases involving a sum above that amount will be referred to special boards. But there is some difficulty as regards ascertaining who are primarily agriculturists. To make that point clear and to define that, I have brought forward this amendment.

Mr. PRESIDENT: Amendment moved: that clause 2 of the Bill be numbered as sub-clause (*1*) of clause 3 and the following sub-clause be added, namely:—

"(2) In clause (9) of section 2 of the said Act, 1935, the following proviso be added at the end, namely:—

Provided that no person shall be deemed to be a debtor under the said Act, who is not a *bonâ fide* agriculturist and whose income from agriculture is less than one-third of his total income".

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I have to oppose this motion. With great respect for the Rai Bahadur, I would like to point out to him that there is no difficulty about this matter at all. The definition that we have in the exising Act of the word "debtor" under section 2(*9*) ought to make it clear to him that in finding out who is an agriculturist, the boards do take all these matters into their consideration.

Further, under the rule-making power given to Government under section 55, rules have been framed to assure that anybody who comes before the board cannot have his debt settled if it exceeds ordinarily a sum of Rs. 5,000. With the Collector's permission, it may come up to Rs. 25,000 and no more. We have introduced further limitations in this Bill, namely, whatever the amount of debt may be, if it is incurred after the first day of January, 1940, it will not be brought before the boards for settlement. So, there will be no difficulty in

getting what he exactly wants. A board really has always that in view. According to the circular that we have issued to boards as to how cases are to be dealt with, a debtor can only be said to be an agricultural debtor if the major portion of his income comes from agriculture. I think this will satisfy the Rai Bahadur and he will be good enough to withdraw his motion; else, I shall be under the painful necessity of opposing him.

Mr. PRESIDENT: The question before the House is: that clause 2 of the Bill be numbered as sub-clause (*1*) of clause 2 and the following sub-clause be added, namely:—

"(*2*) In clause (9) of section 2 of the said Act, 1935, the following proviso be added at the end, namely:—

Provided that no person shall be deemed to be a debtor or under the said Act, who is not a *bonâ fide* agriculturist and whose income from agriculture is less than one-third of his total income".

(The amendment was negatived.)

Mr. MESBAHUDDIN AHMED: Sir, I beg to move that in clause 2 of the Bill—

(A) for the words, figures and brackets "In clause (8) of section 2 of the Bengal Agricultural Debtors Act, 1935 (hereinafter referred to as the said Act)—" the following be substituted, namely:—

"In section 2 of the Bengal Agricultural Debtors Act, 1935 (hereinafter referred to as the said Act)—

(*1*) after clause (6) the following clause be inserted, namely:—

"(6A) "Civil Court" means a Civil Court within the meaning of the Bengal, Agra and Assam Civil Courts Act, 1887, and includes any Court exercising appellate or revisional jurisdiction over any such Court;",

(*2*) in clause (8) " and

(B) after the words "Union Committee" the following be inserted, namely:—

and

"(*3*) after clause (11) the following clause shall be inserted, namely:—

"(11A) "original principal" means the loan as originally borrowed, excluding any amount of interest on such loan which may at any time have been included as principal;"

Mr. PRESIDENT: Amendment moved: that in clause 2 of the Bill—

(A) for the words, figures and brackets "In clause (8) of section 2 of the Bengal Agricultural Debtors Act, 1935 (hereinafter referred to as the said Act)—" the following be substituted namely:—

"In section 2 of the Bengal Agricultural Debtors Act, 1935 (hereinafter referred to as the said Act)—

(*1*) after clause (6) the following clause be inserted, namely:—

"(6A) "Civil Court" means a Civil Court within the meaning of the Bengal, Agra and Assam Civil Courts Act, 1887, and includes any Court exercising appellate or revisional jurisdiction over any such Court;",

(*2*) in clause (8) " and

(B) after the words "Union Committee" the following be inserted namely:—

and

"(*3*) after clause (11) the following clause shall be inserted, namely:—

"(11A) "original principal" means the loan as originally borrowed, excluding any amount of interest on such loan which may at any time have been included as principal;"

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I beg to accept these amendments. They are very simple and are self-explanatory. I don't think they need any further explanation from me.

With these words, Sir, I accept these amendments.

Mr. PRESIDENT: The question before the House is: that in clause 2 of the Bill—

(A) for the words, figures and brackets "In clause (8) of section 2 of the Bengal Agricultural Debtors Act, 1935 (hereinafter referred to as the said Act)—" the following be substituted namely:—

"In section 2 of the Bengal Agricultural Debtors Act, 1935 (hereinafter referred to as the said Act)—

(*1*) after clause (6) the following clause be inserted, namely:—

"(6A) "Civil Court" means a Civil Court within the meaning of the Bengal, Agra and Assam Civil Courts Act, 1887, and includes any Court exercising appellate or revisional jurisdiction over any such Court;",

(2) in clause (8) " and

(B) after the words "Union Committee" the following be inserted, namely:—

and

"(3) after clause (11) the following clause shall be inserted, namely:—

"(11A) "original principal" means the loan as originally borrowed, excluding any amount of interest on such loan which may at any time have been included as principal;"

(The amendment was agreed to.)

Mr. NUR AHMED: Sir, I beg to move that in sub-clause (*d*) of clause 2 of the Bill, in the proposed sub-clause (*vii*), after the words "or rate" in line 1, the words "fee, tolls, or any other dues" be inserted.

Sir, in the sub-clause as it is in the Bill, only municipal tax is excluded. But there are such things as fee, tolls or any other dues which are leviable by the Municipal Commissioners under section 123 of the Municipal Act. I think this is a necessary amendment and it should be accepted.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*d*) of clause 2 of the Bill, in the proposed sub-clause (*ii*), after the words "or rate" in line 1, the words "fee, tolls, or any other dues" be inserted.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I should have thought that what we have done in the Bill should have satisfied my honourable friend the Chairman of the Chittagong Municipality who has just moved this amendment. But if he is only prepared to modify his amendment, there would be no difficulty in accepting it. Since I do not understand what other dues are, it would be very difficult for me to agree to the amendment as it is. So, if my friend is good enough to modify his amendment as "any rate or fee due to the municipality," I am prepared to accept it.

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, I may point out that the phrase "any rate or fee due to the municipality" also includes municipal tax. So, if the municipal tax comes under the provision of the Agricultural Debtors Act, it may be that the municipal administration might suffer, because there is a provision in the Municipal Act that after the failure of the second quarter, the amount can be realised through Court by a distress warrant. If defaulters take

shelter under this Act, the municipal administration will suffer, and similarly in the case of union boards that question will arise.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I am afraid, my honourable friend is under a misapprehension. We are excluding these items from the operation of this Act. These things will not come before the debt settlement boards. If he reads the amendment he will see that these are going to be excluded from the debt settlement boards. That is exactly what my friend Rai Surendra Narayan Sinha Bahadur wants. If Mr. Nur Ahmed is good enough to accept my suggestion and modify his amendment accordingly, I will be prepared to accept it.

Mr. NUR AHMED: What about tolls?

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: They won't be excluded from the operation of this Act.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*d*) of clause 2 of the Bill, in the proposed sub-clause (*vii*), after the words "or rate" in line 1, the words "fee, tolls, or any other dues" be inserted.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is that clause 2, as amended, stand part of the Bill.

(The motion was agreed to.)

Rai Sahib INDU BHUSAN SARKER: Sir, it is 12-40, and you said that you would sit up to 12-30. It is no use hurrying through all these. So, I think, we may stop here.

Mr. H. C. A. HUNTER: Sir, I suggest, we continue till this Bill is finished.

Mr. RANAJIT PAL CHOUDHURY: Sir, I think this Bill cannot be finished to-day on the same ground on which the Money-lenders Bill could not be finished to-day. An amendment has been accepted and the Third Reading cannot be gone through to-day. So, we shall have to continue again with the same Bill to-morrow.

Mr. KAMINI KUMAR DUTTA: Sir, I think, the matter ought to be postponed till to-morrow. After all, this Bill cannot be finished to-day as an amendment has been accepted. The amendments are very few in number and the disposal of the amendments will not really be commensurate with the inconvenience caused to the members.

Mr. PRESIDENT: The only difficulty will be that if the amendments are not finished to-day, the same objection will be raised that the motion for passing of the Bill cannot be taken up to-morrow even. If you agree that you will not raise that objection and if there is such an assurance, then alone it is possible to postpone the consideration of the amendments.

Khan Sahib ABDUL HAMID CHOWDHURY: No, Sir, nobody can give that assurance. Because, some absentee members may raise that objection.

Mr. RANAJIT PAL CHOUDHURY: That is part of our rights and privileges which perhaps most of the members might not be willing to waive.

Mr. MESBAHUDDIN AHMED: Sir, I propose that we finish the amendments to-day.

Mr. PRESIDENT: We shall sit till 1 and not a minute later than that.

Clause 3.

Clause 3 stand part of the Bill.

Mr. KAMINI KUMAR DUTTA: Sir, I beg to move that in clause 3 of the Bill, for the words "servant of the Crown" in line 3, the words "Servant of the Crown who has had judicial experience" be substituted.

Sir, my object in moving this amendment is not to have under that expresion "servant of the Crown" officers without any judicial experience. There must be a clear definition as to what classes of servants of the Crown ought to be given that power.

Mr. PRESIDENT: Amendment moved: that in clause 3 of the Bill, for the words "servant of the Crown" in line 3, the words "Servant of the Crown who has had judicial experience", be substituted.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I have every sympathy with the suggestion made by my honourable friend. He is sure to realise, at any rate, on a perusal of the Act itself, that it is not possible to accept his suggestion. The reasons are these. The question of appointing an officer to take charge of a board under section 4 comes in when the board has been dissolved. We have not got such a large number of officers of judicial experience, who are known as

munsifs, in this province to take charge of the 4,000 boards if they are dissolved. It is from that point of view that we have tried to bring in the amending Bill before the House and if it will be good enough to give us this power, whether the officer is a Sub-Deputy Collector or any officer with experience of debt settlement work, he may be entrusted with this work, namely, to take possession of the affairs of the board after it has been dissolved.

I appreciate the point of view mooted by my honourable friend, but he ought to realise the practical difficulty.

Further, the officer who will be appointed will have nothing to do with any further case work. It is from that point of view that I have brought this amending Bill. With this explanation, I only hope that Mr. Dutta will be good enough to withdraw his motion. If not, I shall have to oppose him.

Rai Sahib INDU BHUSAN SARKER: Sir, may I make one suggestion? If that be the case, and if sufficient number of officers of judicial experience are not available, then some training may be given to those officers who may be deputed for this purpose. Otherwise, it will be difficult for the functioning of these boards.

Mr. PRESIDENT: Then there should have been an amendment to that effect.

Rai Bahadur SURENDRA NARAYAN SINHA: I only suggest to the Hon'ble Minister that in case of special boards, judicial officers having judicial experience may be available. So, that portion may be accepted.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: My honourable friend ought to have been good enough to see that this power——

Mr. PRESIDENT: Order, order. The Hon'ble Minister has no right of second speech.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: All right, Sir. I said it is left to the Commissioner and he will certainly look into this question.

Rai Sahib INDU BHUSAN SARKER: Sir, may I move a short-notice amendment?

Mr. PRESIDENT: No.

Mr. PRESIDENT: The question before the House is: that in clause 3 of the Bill, for the words "servant of the Crown", in line 3, the words "Servant of the Crown who has had judicial experience" be substituted.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is that clause 3 stand part of the Bill.

(The motion was agreed to.)

Clauses 4 and 5.

Mr. PRESIDENT: Clauses 4 and 5 stand part of the Bill.

The question before the House is that clauses 4 and 5 stand part of the Bill.

(The motion was agreed to.)

Clause 6.

Mr. PRESIDENT: Clause 6 stand part of the Bill.

Mr. MESBAHUDDIN AHMED: Sir, I beg to move that in clause 6 of the Bill, sub-clause (*3*) be omitted.

Mr. PRESIDENT: Amendment moved: that in clause 6 of the Bill, sub-clause (*3*) be omitted.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: I accept this because it follows from the decision that the House has already taken.

Mr. PRESIDENT: The question before the House is: that in clause 6 of the Bill, sub-clause (*3*) be omitted.

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is that clause 6, as amended, stand part of the Bill.

(The motion was agreed to.)

Clauses 7, 8, 9 and 10.

Mr. PRESIDENT: Clauses, 7, 8, 9 and 10 stand part of the Bill.

The question before the House is: that clauses 7, 8, 9 and 10 stand part of the Bill.

(The motion was agreed to.)

Clause 11.

Mr. PRESIDENT: Clause 11 stand part of the Bill.

Mr. MESBAHUDDIN AHMED: Sir, I beg to move that in sub-clause (*b*) of clause 11 of the Bill, in the proposed clause (*c*), for the words "such debt" in line 11, the following be substituted, namely:—

"or in lieu of payment of any portion of the principal of such debt or any portion of the interest thereon."

Mr. PRESIDENT: Amendment moved: that in sub-clause (*b*) of clause 11 of the Bill, in the proposed clause (*c*), for the words "such debt" in line 11, the following be substituted, namely:—

"or in lieu of payment of any portion of the principal of such debt or any portion of the interest thereon."

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I accept it because it is only an elucidation of what has already been done in clause 10. No further argument is necessary.

Mr. PRESIDENT: The question before the House is: that in sub-clause (*b*) of clause 11 of the Bill, in the proposed clause (*c*), for the words "such debt" in line 11, the following be substituted, namely:—

"or in lieu of payment of any portion of the principal of such debt or any portion of the interest thereon."

(The amendment was agreed to.)

Mr. PRESIDENT: The question before the House is: that clause 11, as amended, stand part of the Bill.

(The motion was agreed to.)

Clause 12.

Mr. PRESIDENT: Clause 12 stand part of the Bill.

Mr. MESBAHUDDIN AHMED: Sir, I beg to move that after clause 12 of the Bill, the following new clause be inserted, namely:—

"Amendment of section 20.

12A. In section 20 of the said Act, after the word 'not', the words 'or whether a liability is a debt or not' shall be inserted."

Mr. PRESIDENT: Amendment moved: that after clause 12 of the Bill, the following new clause be inserted, namely:—

"Amendment of section 20.

12A. In section 20 of the said Act, after the word 'not', the words 'or whether a liability is a debt or not' shall be inserted."

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I accept this amendment because it gives the power to decide as to whether a liability is a debt or not when the board decides whether a man is a debtor or not. It is with a view to remove that bit of anomaly that I accept this.

Mr. PRESIDENT: The question before the House is: that after clause 12 of the Bill, the following new clause be inserted, namely:—

12A. In section 20 of the said Act, after the word 'not', the words 'or whether a liability is a debt or not' shall be inserted." "Amendment of section 20.

(The amendment was agreed to.)

Mr. KAMINI KUMAR DUTTA: Sir, I beg to move that in clause 12 of the Bill, after sub-section (4) of the proposed section 19A, the following new sub-section be added, namely:—

"(5) An order passed under this section by the Certificate Officer shall be appellable to the Collector."

Sir, as the order passed by the Certificate Officer in cases in which he has been given the power to pass orders, affects vital interests, the order ought to be made subject to appeal.

Mr. PRESIDENT: Amendment moved: that in clause 12 of the Bill, after sub-section (4) of the proposed section 19A, the following new sub-section be added, namely:—

"(5) An order passed under this section by the Certificate Officer shall be appellable to the Collector."

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I am afraid there has been some amount of misapprehension that the Certificate Officer comes in when the creditor fails to restore possession of the piece of land to the debtor concerned. Whatever objection the creditor may have, he can take the same and appeal against the award. After that is done, I do not think there is anything further which can be done when the Certificate Officer comes to make over possession.

Sir, I submit with all respect that it is due to some misapprehension that this amendment has been moved and my friend will be good enough to withdraw his motion; if not, I shall have to oppose him.

Mr. PRESIDENT: The question before the House is: that in clause 12 of the Bill, after sub-section (4) of the proposed section 19A, the following new sub-section be added, namely:—

"(5) An order passed under this section by the Certificate Officer shall be appellate to the Collector."

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is that clause 12, as amended, stand part of the Bill.

(The motion was agreed to.)

Clauses 13, 14, 15, 16, 17 and 18.

Mr. PRESIDENT: Clauses 13, 14, 15, 16, 17 and 18 stand part of the Bill.

The question before the House is: that clauses 13, 14, 15, 16, 17 and 18 stand part of the Bill.

(The motion was agreed to.)

Clause 19.

Mr. PRESIDENT: Clause 19 stand part of the Bill.

Mr. KAMINI KUMAR DUTTA: Sir, I beg to move that in sub-clause (*1*) of clause 19 of the Bill, in the proposed proviso, after the word "under" in line 1, the words, brackets and figures, "sub-section (*2*) of section 13, section 18, section 19" be inserted.

Under the existing Bill, appeals as to orders under section 13(*2*), section 18 and section 19 which are important orders and which very vitally affect the interests of the parties, are allowed not to the special appellate officers but to the ordinary appellate officers. The object of my amendment is this, that as the orders contemplated under sections 13(*2*), 18 and 19 are important orders, they should be made appealable to the special appellate officers.

Mr. PRESIDENT: Amendment moved: that in sub-clause (*1*) of clause 19 of the Bill, in the proposed proviso, after the word "under" in line 1, the words, brackets and figures, "sub-section (*2*) of section 13, section 18, section 19", be inserted.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I oppose it. I have every sympathy with the object that has induced my friend to move this amendment. I can only assure him that these appeals will be heard by a separate appellate officer, namely, the munsiff where a knowledge of the law is necessary. But where local knowledge is necessary, we have found that a good deal of difficulty has been experienced in getting a proper decision on appeal. Therefore, these matters which come under section 32 where ex parte orders are passed in the absence of debtors, under section 18 where orders for the determination of the amount of debts are made and under section 19 where settlements of debts are made, require local knowledge more than abstract

knowledge of the law. It is from that point of view that we have brought in this amendment and I regret that I am unable to agree with the point of view made by the Leader of the Opposition.

Mr. PRESIDENT: The question before the House is that in sub-clause (*1*) of clause 19 of the Bill, in the proposed proviso, after the word "under" in line 1, the words, brackets and figures "sub-section (*2*) of section 13, section 18, section 19" be inserted.

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is that clause 19 stand part of the Bill.

(The motion was agreed to.)

Clause 20.

Mr. PRESIDENT: Clause 20 stand part of the Bill.

Mr. KAMINI KUMAR DUTTA: Sir, I beg to move that in clause 20 of the Bill, in sub-section (*4*) of the proposed section 40A, for all the words beginning with "but shall not" in line 3, to the end of the sub-section, the following be substituted, namely:—

"and may hear the parties or any person appearing on their behalf."

Sir, now it appears that under the present Bill special power of revision has been conferred upon the District and Additional Judges, but it has been laid down that they shall not hear any party or his agent. I am not for moving that the Judge is bound to hear any party. So, my amendment simply gives power to the District and Additional Judges to hear the parties or their agents, if they think necessary. So, intentionally I have used the word "may" in my amendment and not "shall." The object of my amendment is not to preclude Judges from hearing parties or their agents but to leave it to their discretion to hear the parties if they think fit.

Mr. PRESIDENT: Amendment moved: that in clause 20 of the Bill, in sub-section (*4*) of the proposed section 40A, for all the words beginning with "but shall not" in line 3, to the end of the sub-section, the following be substituted, namely:—"and may hear the parties or any person appearing on their behalf."

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I am afraid, I have to oppose it, for it only means that creditors who will be able to employ adroit lawyers in the revision cases, will put the debtors to very great difficulty as the latter have got no money to spend on lawyers. We thought over this matter very seriously, and we felt

we should not be justified in giving this power to the parties—the power to represent them by a lawyer before the District Judge. We have allowed lawyers to appear in appeal cases in the lower court and whatever grounds they may have will be sufficiently argued before it. In the case of an application for revision, the appellate officer will be called upon to forward the record of the case and the application for revision together with any explanation which he may desire to offer to the District Judge who will then give his decision on the basis of that. Therefore, no further appearance before the District Judge is necessary. We have to depend upon our experience hereafter to accept any suggestion of this nature, but for the present I am unable to accept this amendment.

Mr. PRESIDENT: The question before the House is: that in clause 20 of the Bill, in sub-section (*4*) of the proposed section 40A, for all the words beginning with "but shall not" in line 3, to the end of the sub-section, the folowing be substituted, namely:—

"and may hear the parties or any person appearing on their behalf."

(The amendment was negatived.)

Mr. PRESIDENT: The question before the House is: that clause 20 stand part of the Bill.

(The motion was carried.)

Clauses 21, 22, 23 and 24.

Mr. PRESIDENT: Clauses 21, 22, 23 and 24 stand part of the Bill.

The question before the House is: that clauses 21, 22, 23 and 24 stand part of the Bill.

(The motion was agreed to.)

Short Title and Preamble.

The question before the House is: that the Short Title and Preamble stand part of the Bill.

(The motion was agreed to.)

The House stands adjourned till 9-30 a.m. to-morrow.

Adjo

The Council then adjourned till 9-30 a.m. on Friday, the 19th January, 1940.

Members absent.

The following members were absent from the meeting held on the 18th January, 1940:—

(1) Rai Bahadur Keshab Chandra Banerjee.
(2) Mr. Humayun Reza Chowdhury.
(3) Khan Bahadur Rezzakul Haider Chowdhury.
(4) Mr. Bankim Chandra Datta.
(5) Mr. Narendra Chandra Datta.
(6) Khan Bahadur Alhaj Khwaja Muhammad Esmail.
(7) Nawabzada Kamruddin Haider.
(8) Khan Bahadur Saiyed Muazzamuddin Hosain.
(9) Mr. Mohamed Hossain.
(10) Alhaj Khan Bahadur Shaikh Muhammad Jan.
(11) Mr. Naresh Nath Mookerjee.
(12) Rai Bahadur Satis Chandra Mukherjee.
(13) Mr. H. P. Poddar.
(14) Khan Bahadur Mukhlesur Rahaman.
(15) Rai Bahadur Radhica Bhusan Roy.
(16) Mr. K. C. Roy Chowdhury.
(17) Mr. Sachindra Narayan Sanyal.

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THE BENGAL LEGISLATIVE COUNCIL DEBATES

THE COUNCIL met in the Legislative Chamber of the Legislative Building, Calcutta, on Friday, 19th January, 1940, at 9 a.m. being the twenty-ninth day of the Third Session, pursuant to section 62 (2) (a) of the Government of India Act, 1935.

Mr. President (the Hon'ble Mr. SATYENDRA CHANDRA MITRA) was in the Chair.

QUESTIONS AND ANSWERS

157. Mr. RANAJIT PAL CHOUDHURY (on behalf of Mr. Kamini Kumar Dutta): (a) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state if at a meeting of the Commissioners of the Noakhali Municipality held on the 10th June, 1939, the Managing Committee of the Sadar Hospital and B. K. Manikya Charitable Dispensary was formed with twelve members including Babu Kshitish Chandra Roy Choudhury, Vice-Chairman of the Municipality, and Maulvi Muhammad Fazlullah?

(b) Has the Commissioner of the Chittagong Division vetoed the appointment of Babu Kshitish Chandra Roy Choudhury, Vice-Chairman of the Municipality, and of Maulvi Muhammad Fazlullah and has he appointed the Managing Committee excluding those members?

(c) Was Babu Kshitish Chandra Roy Choudhury elected by the Commissioners of the Noakhali Municipality as a representative of the municipality on the Managing Committee?

(d) Will the Hon'ble Minister be pleased to inquire into the reasons of such action on the part of the Divisional Commissioner?

(e) Will the Hon'ble Minister be pleased to state what are the reasons which led the Commissioner to exclude the aforesaid two members?

(f) Will the Hon'ble Minister be pleased to state whether the policy of disregarding the election made by a responsible body like the Commissioners of a municipality in the headquarters of a district by the Commissioner is approved by the Government?

MINISTER in charge of the LOCAL SELF-GOVERNMENT and AGRICULTURE DEPARTMENTS (the Hon'ble Mr. Tamizuddin Khan): (a), (b) and (c) Yes.

(*d*) and (*e*) Under Rule 20(*b*) of the Statutory Rules for the Management of Hospitals and Dispensaries, the appointment of members of the Managing Committees of Local Fund Hospitals and Dispensaries is subject to the veto of the Commissioner of the Division. In the two cases referred to by the hon'ble member, the Commissioner in the exercise of discretion vested in him by the above rule vetoed the two appointments as he did not consider that these two gentlemen would be suitable members.

(*f*) In view of the discretion vested on the Commissioner by the Statutory Rule mentioned above, the question of approval or otherwise by Government does not arise.

158. Rai SURENDRA NARAYAN SINHA Bahadur (on behalf of Raja Bhupendra Narayan Sinha Bahadur, of Nashipur): (*a*) Is the Hon'ble Minister in charge of the Agriculture Department aware that Government communiques are being issued from time to time about the restriction of jute or about the fixing of the minimum price of jute and is he aware of the fact that such communiques are helping only the speculators in the Share Market and the jute trade?

(*b*) Is he further aware of the fact that there is a strong belief in the Share Market that some interested parties are influencing Government to issue such communiques for their personal benefit?

(*c*) Will he be pleased to state the real reasons for issuing such communiques under the subject of jute trade at a time when the Share Market is in a very fluctuating state without taking any real legislative measures or any other measures for controlling or fixing minimum price of jute?

The Hon'ble Mr. TAMIZUDDIN KHAN: (*a*) Government have issued no communiques about restriction of jute or fixing of minimum price of jute.

I have introduced in the Legislative Assembly a Bill which seeks to give powers to the Government to regulate the production of raw jute and later when I found that that Bill could not be passed in both Houses before the Assembly was prorogued, I issued a statement explaining that the postponement of the Bill did not mean that Government had abandoned the idea of regulation and that the question of regulating the 1940 crop was still under consideration. I have issued no other statements or communiques.

(*b*) and (*c*) Do not arise.

Pending questions.

Mr. LALIT CHANDRA DAS: On a point of information, Sir. Sometime back I gave notice of a question which related to the visit of three Hon'ble Ministers to Comilla. I do not know, Sir, why that question has not yet been answered. I know it as a matter of fact that the office sent three reminders to the administrative department concerned in this connection but no reply has as yet been sent.

Mr. PRESIDENT: Does any of the Hon'ble Ministers want to explain matters?

The Hon'ble Mr. TAMIZUDDIN KHAN: May I know, Sir, what was the subject-matter of my honourable friend's question?

Mr. LALIT CHANDRA DAS: It was about the visit of three Hon'ble Ministers to Comilla and about the expense that was incurred on that account. I also want to know why they visited Comilla.

The Hon'ble Mr. TAMIZUDDIN KHAN: Was myself one of those Ministers?

Mr. LALIT CHANDRA DAS: No, you were not one of them. I want to know, Sir, why this question has not yet been answered. It was admitted, and it is due for answer for about a month.

Mr. PRESIDENT: Sir Nazimuddin, Mr. Lalit Chandra Das desires to know why his question, which was due to be replied on the 23rd of November and for which three reminders were sent from my office, has not yet been replied.

The Hon'ble Khwaja Sir NAZIMUDDIN: I do not know, Sir, what has happened. I tried to trace the file but failed. However, the answer will be sent during the next session.

Mr. RANAJIT PAL CHOUDHURY: Perhaps Government would like to have another adjournment for that. (Laughter.)

Mr. PRESIDENT: Mr. Das, what is the point you wanted to raise in your question?

Mr. LALIT CHANDRA DAS: Sir, it was about the simultaneous visit of three Ministers to Comilla. The particular point that I raised was whether it was on the demand of local Muslim students. I submit, Sir, that it is no use stating what the question related to. I can only

give a gist. But the question is there, and the answer should be according to the question put. I want to know, Sir, whether the cost of the visit was met out of the private funds of the Hon'ble Ministers or whether it was paid from the public exchequer. My question was definite and specific, and it was put in the way that a question should be put. I want an answer to that question.

Hon'ble President's statement about outstanding questions.

Mr. PRESIDENT: Order, order. I find that the following questions are outstanding, the due dates for receiving the answers thereto having been passed.

From the Education Department, one question of Mr. Nur Ahmed which was due to be replied on the 1st January, 1940; one reminder was sent. Another question from Mr. Lalit Chandra Das that was also due on the 2nd January for which a reminder was sent.

From the Finance Department, one question of Mr. Kamini Kumar Dutta, which was due to be replied on the 23rd November last, and for which three reminders were sent. It has not yet been answered. Then, there is question No. 174 of Mr. Pal Choudhury, which was also due to be replied on the 21st November; two reminders have been sent but no answer has yet been sent to us.

Then one question of Mr. Lalit Chandra Das relating to the Home Department; the answer was due on the 23rd November; three reminders were sent. Another question, namely, question No. 196 of Raja Bahadur of Nashipur was also due on the 23rd November, for which three reminders were sent, but no answer has yet been received. Then, another question of Mr. Lalit Chandra Das that was due to be answered on the 22nd December and for which two reminders were sent.

No question relating to the Revenue Department is outstanding.

In regard to the Communications and Works Department, there is a question of Mr. Nur Ahmed which was due to be answered on the 10th December and for which two reminders were sent.

In regard to the Public Health and Local Self-Government Department, there is a question of Mr. K. C. Roy Chowdhury which was due on the 8th December and for which two reminders have been sent to.

In regard to the Commerce and Labour Department, there is one question of Mr. S. C. Chakraverty which was due on the 20th December and for which two reminders have been sent; another question of Mr. Lalit Chandra Das which was due on the 23rd December and for which three reminders were sent.

No question relating to the Agriculture and Industries Department is outstanding.

No question relating to the Co-operative Credit and Rural Indebtedness Department is outstanding.

This is the state of things. It will be seen that my office has sometimes sent 2 or 3 reminders but to no effect. The office has no power to compel the administrative departments to send answers. Of course, the House can take drastic measures if it likes, but this is a matter for the honourable members of the House to decide and not for the office. The office has taken every care to get an answer when it was due. After every 10 days, the office sends a reminder, and in this way in many cases three reminders were sent. So, the House will have to consider what may be done in the matter. I think it is only proper that Hon'ble Ministers should explain as to why in spite of repeated reminders they could not give the answers. They could have informed the House that necessary enquiry was being made to procure the information asked for by the members but by remaining silent, they have only betrayed their inability to discharge their duties by this House.

The Bengal Money-lenders Bill, 1939.

Mr. PRESIDENT: Order, order. Discussion on the Third Reading of the Bengal Money-lenders Bill will now be proceeded with.

Rai SURENDRA NARAYAN SINHA Bahadur: Sir, now that the Bill enters on the stage for final passing, I should like to make a few remarks on our efforts to improve the Bill. We tabled several amendments for excluding certain subjects which we considered to be Federal Subjects but as the points of order raised by us have been decided against us, we cannot make a grievance here. The remedy lies open to every litigant to take the matter up to the Federal Court. Drastic provisions like punishment of money-lenders for non-compliance with the provisions in case they are before courts of law called for our interference but without success. But if there is combination between the two parties, viz., the lender and the borrower, the provisions of the Bill will be left high and dry. I think in spite of the efforts of the Government, good sense will prevail and very little use will be made of the provisions of the Bill when it is placed on the Statute Book.

Sir, the views of some of the members were that the time-limit for the recognition of scheduled banks be omitted, but that attempt on the part of those members has failed. Then, Sir, there was opposition for exclusion of co-operative societies under the purview of the Bill

but that proposal, if accepted, would have been a strong blow on the co-operative movement. The Hon'ble Minister has suggested that in framing rules for controlling the banks he will see to the advantage of the public as well as of banks and later on, if necessary, he will bring in an amending Bill. I hope that Government will stick to this assurance. I believe the Bill, when passed into an Act, will do good to the debtors, though there are grievances from creditors and others. So, I do not oppose the passing of the Bill.

Mr. MESBAHUDDIN AHMAD: On a point of order, Sir. Is it proper for the Leader of the Opposition to be absent from the Council when the Third Reading was postponed yesterday at the instance of his party?

Mr. PRESIDENT: It is to be regretted that the Leader of the Opposition should be absent to-day when the Third Reading of the Bill is going on. I think it is not fair to the House that he should have got the debate postponed and yet be absent to-day.

Mr. RANAJIT PAL CHOUDHURY: Unfortunately, the Leader of the party to which I have the honour to belong has not been able to be present yet. Since the main objection was raised yesterday by me and since I am present, I hope you will consider that sufficient for the purpose. I have no doubt that my leader will turn up presently.

Regarding the Third Reading, I would like to place on record my personal views regarding this Bill, which I believe, are also to a certain extent the views of my party. On the whole, we accept the general principles of the Bill, but there are certain clauses which in our opinion are detrimental to the development of rural credit which is already at a stand still. There are certain clauses in the Bill which have certainly gone against the present conditions. We tried to improve them by our amendments but unfortunately through sheer brute force they were turned down.

Mr. KADER BAKSH: On a point of order, Sir. Is the expression "brute force" parliamentary?

Mr. PRESIDENT: I cannot say that it is not parliamentary. I would, however, request the hon'ble member not to use such expressions, as far as practicable.

Mr. RANAJIT PAL CHOUDHURY: I bow down to your ruling. In future, I shall not use such strong expressions.

It has certainly not been healthy for the rural credit which is already not bright, but I am sure Government will realise on a later

date whether it has really come to the help of the people in the rural areas by putting this Bill on the Statute Book. I hope this Bill will really be of some use and that we shall be able to get on in a better and progressive manner.

Mr. HUMAYUN KABIR: Mr. President, Sir, as I have stated on more occasions than one in this House, this is a Bill which is generally acceptable to all sections of the House and it involves principles which are necessary for the reconstruction of rural credit in Bengal and the rehabilitation of its economic life. I would also like to congratulate the Hon'ble Minister, the Hon'ble Nawab Musharruff Hossain, on the way in which he has piloted the Bill through this House, because he has kept his wits about him and has met our objections and criticisms in a way which has generally pleased the Opposition. After these words, I would like to make a few remarks with regard to the Bill as a whole. As I stated a moment ago, it is a Bill which we think is necessary and is desirable and the principles generally involved are acceptable to all sections of the House. But we have objected on occasions to certain items of the Bill and even more than that we have objected to the way in which the Bill has been managed. At times, the Government have shown a most lamentable lack of decision and uncertainty of opinion with regard to the different provisions of the Bill. If I go a little into the history of the way in which the Bill originated in another place and was piloted through in another place, I think it will bear out what I have just now stated. In the original Statement of Objects and Reasons, certain statements were made. Banks and certain other classes of credit institutions were excluded, as it was said in the Statement of Objects and Reasons of the Bill that these could not come within the purview of a Provincial Bill. Later on, this attitude changed. In the Select Committee, the scope of the Bill was extended very wide indeed. Generally we welcomed the extension of the scope of the Bill, but then again something mysterious happened and when the Bill came to be considered, clause by clause, in the Lower House, the recommendations of the Select Committee were one after another dropped till the Bill became a mere shadow of what it was, and today if we have any quarrel with the Bill, it is on account of the fact that it is not as far-reaching and is not as fair to different parties and groups as it ought to be. It is certainly not as far-reaching as the Select Committee intended to make it and there have been exclusion after exclusion of different types of institutions from the purview of the Bill. Yesterday, we added one further item to the list of exclusions and there has even been discrimination without any reason and I don't think that the Hon'ble Minister or anybody on the Government side has made it clear why there should be any exclusion of banks which were registered as scheduled banks on or before the 1st January, 1939, and not those which are going to be

registered or have been registered after the 1st of January, 1939. No mystic virtue attaches to the date of 1st January, 1939, and that point has not at all been met by any speaker from the Government side. Therefore, as I said a moment ago, if we have any objection, it is only to the way in which the Bill has been treated by the Government. It was originally a Bill of a very limited application. In the Select Committee, the scope was extended and then again, during the discussion in another place, these different items were dropped one after another. Even after it came to this House, the Government were very often not in a position to state clearly what they wanted.

Sir, this is a Bill which is important for building up the economic life of Bengal, for restoring the basis of economic life of the peasantry, which has almost been destroyed on account of lack of credit and on account of the poverty and usury from which the peasantry has suffered. Here, it is necessary that Government should take a long view, should plan deliberately, slowly and carefully, before they proceed with a measure like the one we are considering to-day. The constant shifting of the position of the Government, the constant hesitancy and constant uncertainty, the constant postponing of questions from day to day and the constant announcement on the floor of the House that Government were not prepared to say what the policy of Government was in regard to any particular item, showed a lack of decision and an absence of planning which I think has told very hard against the Government themselves. In a matter like this, there should have been more planning, more care and more foresight. This is a serious charge but excepting this one criticism with regard to the procedure in which the Bill has been planned and carried through in both the Houses, I would say that we extend our welcome to this necessary measure and I think that the day on which it will be placed on the Statute Book will be a proud day for Bengal.

Mr. KADER BAKSH: Sir, I am happy that the most difficult stage of this Bill has been passed and that it has come to the Third Reading stage. Now, the question is: how will the Bill be taken by the masses in the interior of Bengal?

Mr. RANAJIT PAL CHOUDHURY: That is yet to be seen.

Mr. KADER BAKSH: I think that the public opinion is absolutely clear. It is on account of the pressure brought to bear upon us by the masses in the interior that the Bill was introduced and is going to be passed in the present form. My friend Mr. Humayun Kabir says that it has been an act of injustice that any bank which will become or has become a scheduled bank after the 1st of January, 1939, will not be excluded from the operation of this Bill. He has not found any reason for that. I can give him the reason. I know for myself instances in

which attempts have been made, not very honourable I must say, to bring together banks which are in a moribund condition and to file an application praying that they might be declared a scheduled bank only with the sole object of keeping the high rate of interest in tact. That is the reason why no bank which becomes a scheduled bank after 1st January, 1939, should be excluded from the operations from this Bill. He does not know the rural conditions in Bengal.

Mr. HUMAYUN KABIR: Question!

Mr. KADER BAKSH: He cries himself hoarse on the floor of the House that he is feeling very much for the masses but he never feels for them because he is not in touch with these people. We who come from the interior, who are tenants and who are agriculturists, feel for the masses because we are also drawn from the masses. We know them and we can speak with authority on their behalf but not my friend Mr. Humayun Kabir or Mr. Ranajit Pal Choudhury. We know that there has been an insistent demand on the part of the people to scale down the rate of interest because the economic condition of the masses in the interior has fallen and has gone down. The masses have been exasperated due to the exorbitant rate of interest demanded by the money-lenders in the interior and by the loan offices which are banks only in name. I have been in personal touch with several banks in the interior and I know the activities of these banks. They charge 5 per cent. a month. I know them personally and I defended several cases where the rate of interest was 60 per cent. a year. In spite of my attempts to defend these cases, decrees were passed at a high rate of interest. Now, I know of instances in which within my knowledge attempts have been made to bring some banks within the category of scheduled banks solely with the purpose of evading the operations of this Bill. Then again, Bengal is producing paddy, jute and many other things, but the condition of the masses, the condition of the peasants is deteriorating steadily. When we have a fair market for jute, paddy and other commodities, the condition of the peasants is not in any way advancing. Why? Because they have to pay such a high rate of interest to the *mahajans*. The main principle of the Bill has been to lower down the rate of interest. I must say very clearly on the floor of this House that the Bill is going to do the greatest possible good to the masses.

Sir, I must congratulate the Hon'ble Minister in charge of the Bill on the bold and tactful manner in which he has piloted it in this House I must thank him for the trouble that he took to get the Bill through. I must also thank the Hon'ble President who gave his utmost thought and consideration over this Bill and also for the ruling which he gave the other day holding that the Bill is *intra vires*. I must not omit to thank the members of the Congress group, also. Though they opposed

sometimes, I believe they were never serious in opposing the Bill. They are also out for doing the greatest possible good to the masses. I can assure them this much that we, the members of the Coalition Group, were never actuated by any motive than doing the greatest good to the masses. I must thank Rai Sahib Indu Bhusan Sarkar for his honesty of purpose. He represents the money-lending class. He advocated their case very ably and did his best to do them the greatest possible good. Then again, I must thank the European Group, especially Mr. Hunter.

Mr. RANAJIT PAL CHOUDHURY: Thank them properly.

Mr. KADER BAKSH: I must thank them for the help they rendered in getting the Bill passed. I again assure this House, all the hon'ble members of all the groups, that we the members of the Coalition Party were never actuated by any motive other than doing the greatest good to the largest number of people in the interior. Before I resume my seat, I must once again congratulate the Hon'ble Nawab Musharruff Hossain on his signal achievement in getting such an important Bill as the Money-lenders Bill passed.

Rai Sahib INDU BHUSAN SARKAR: Sir, as the Bill goes through the Third Reading, I must at the outset record my emphatic protest against the Bill in the form it is going to be passed. I do so, however, with a sense of frustration, because the wise counsel and sane utterances that have been made by some of the hon'ble members of the House in course of the second reading of the Bill have fallen flat on the Government who have not budget an inch, so to say, from their original position to accommodate popular wishes. Verily they have fallen on stony soil and yielded no fruit. But, Sir, lest I be misunderstood, I hasten to say that there exists, no doubt, the necessity of a suitable legislation for controlling money-lending in the province. I do not deny the need for a legislation suitable to the needs of the situation. I am not opposed to legislation as such for the regulation of money-lending. But the Bill in the form it is going to be passed will cause the greatest disservice to the agriculturists themselves, instead of benefiting them for which it is primarily intended. The enactment of the Bengal Agricultural Debtors Act a few years back has already restricted credit in rural areas. The main principle underlying that Act, viz., scaling down of the total debt burden to a manageable proportion and within the paying capacity of the cultivator, was laudable indeed, and even the money-lenders themselves could not take any reasonable objection to it. At the time of enactment it was thought that the said Act would not be a permanent feature of the credit system of the country. This hope has, however, been frustrated and nothing is heard about an early abolition of the

Act. And what is more the operation of the Debt Settlement Boards has seriously undermined the credit structure of the province. The way in which the Act is being administered has created a panic in rural areas, and as a matter of fact resulted to a great extent in driving money-lenders away from the countryside. The present Money-lenders Act will hasten and complete that drying-up process of rural credit. Rural credit has already become frozen and the Bill now before the legislative anvil will completely dry it up. This is not the time to enter into a detailed criticism of the various provisions of the Bill. I shall only content myself by referring in a general way to some of the most objectionable features of the Bill. In the first place, by the inclusion of smaller banks within the scope of the Bill the Government have struck at the root of the growth of saving and banking habits among the rural masses and incidentally to the development of banks within the province. Bigger banks have seldom their branches and agents in rural areas, and they hardly cater to the needs of the rural masses. The operation of the Bengal Agricultural Debtors Act has told heavily on the resources of the rural money-lenders. The present Bill is going to eat into their resources deeper, and as a result they are shy of extending any fresh loans, and whenever the agriculturists badly require any money they are to procure the same by selling their valuable lands outright. The co-operative credit movement is in a state of suspended animation. If the activities of banks are also checked in the name of control, then to whom shall the rural people look up to for their seasonal credit requirements? Will not such a state of affairs lead to a complete freezing up of rural credit? Of course, the Government is advancing short-term loans through Co-operative societies, but their resources are limited and no Government is in a position to meet all requirements of needy agriculturists of the country.

Sir, in this connection I may be permitted to read a few lines from a newspaper. Our Hon'ble Premier, the other day, in his Madaripur speech, said:—

"As regards the establishment of a College in Madaripur, the Chief Minister referred to the financial difficulties due to the fall in stamp revenue to the extent of Rs. 1 crore following the establishment of Debt Settlement Boards and asked the people to depend more on self-help than on Government help. Free primary education, the Chief Minister said, was not possible without taxation."

Mr. E. C. ORMOND: On a point of order, Sir. May we at least ask from which Paper the hon'ble member is reading and whether he proposes to read the whole Paper?

Rai Sahib INDU BHUSAN SARKAR: I only want to read a few lines.

Mr. E. C. ORMOND: May we know from what Paper of what date he is reading?

Rai Sahib INDU BHUSAN SARKAR: From the "Amrita Bazar Patrika", dated the 16th January, 1940.

Mr. PRESIDENT: Order, order. You have given the name and date of the Paper. That is all right.

Rai Sahib INDU BHUSAN SARKAR: Again, Sir, an invidious distinction has been sought—

Mr. PRESIDENT: You said that you would read only two or three sentences.

Rai Sahib INDU BHUSAN SARKAR: Yes, Sir, I have finished that. An invidious distinction has been sought to be made by excluding the scheduled and notified banks from the scope of the Bill. The *modus operandi* of both these two classes of banks is the same. If the former group of banks is included why not the latter? Or if the latter group has been excluded, why has it not been found practicable to exclude the former group too? Again, no provision has been made in the Bill for an automatic recognition of a bank as a notified bank on fulfilling certain conditions specifically mentioned in the Bill. Such recognition has been left in the hands of the administration. Rather the Reserve Bank with an expert knowledge should have been entrusted with this duty. Secondly, the rates of interest as fixed are unjustifiably low and much below the rates suggested by the Reserve Bank of India. The rate of interest charged on any particular loan cannot ordinarily be an absolute figure. It is determined not only by a consideration of the service of the money lent but also by the element of risk involved. There is no finality in fixing maximum rates of interest. The rates of interest should fluctuate according to market conditions, and should have a relation with the prevailing bank rate. But the rates proposed in the Bill have been fixed without a proper appreciation of the existing conditions of the country and specially of the existing sources of rural credit. These rates are bound to affect savings and reduce the volume of loanable funds available in rural areas. Thirdly, the extension of the rule of *damdupat*, prohibition of interest on the decretal amount on account of past loans, opening of past transactions and closed accounts—the combined effect of all these would be to give a premium on default and lead to increased litigation among the people. The present Act will also lead to increased strained feelings and rake up disaffection among the people. The Bengal Agricultural Debtors Act has already divided the country into two anti-camps, the haves and the have-nots. The present Act will surely widen the gulf. Of late there has been a tendency on the part of rural money-lenders to urbanise

their investments and to restrict considerably their lending operations in rural areas. But the provisions of the present Bill have been so designed as to give a death-blow to the money-lenders in the rural areas, and incidentally in drying up the available channels of rural credit. And anybody who has the welfare of the country at heart cannot view the situation with any degree of equanimity, especially in view of the pre-eminent position occupied by money-lenders in the village economy of the country, who, to quote the words of the Reserve Bank, "have been out and will continue to be an important and indispensable factor in the rural economy of the country." All this has been said not in any spirit of discrediting the Government. I realise the necessity for a suitable legislation for regulating money-lending in the province. But what I want to submit is that money-lending as a business is also governed by the interplay of economic forces, and any attempt to place undue and unnatural restrictions on it is surely to impede the normal flow of credit within the country to the detriment of the industrial and agricultural development of the province. The Bill will frustrate the very object which it is intended to serve.

Incidentally, I may refer to the unfavourable reaction the present Act will have on the revenues of the province. There has already been a great deficit on the revenue head following the enactment of the Bengal Agricultural Debtors Act and the present Act will surely lead to a further deterioration in the financial solvency of the province.

Sir, I will not take any more time of the House. Perhaps the patience of the hon'ble members has reached its limit; I have taxed it enough. Before I conclude and take my seat, I do so only with an appeal to the good sense and sanity of the Government to accept some of the modifications urged in and outside the House, by the legislators and the public as well, that would mitigate to some extent the rigours of the proposed Act. Sir, when the Bill is again going to the Assembly, Government can do so. If they do so, that will surely be an act of gesture which will be appreciated by all right-thinking people of the province. If they do that they will be doing a true service of everlasting benefit to the country. Then and then alone will the Bill satisfy the real needs of the country and meet the real will of the people.

Mr. NUR AHMED: Sir, I rise to support the motion moved by the Hon'ble Minister in charge of the Bill for the final passing of this Bill. Let me take this opportunity to congratulate the Ministry on the passing of this very useful measure. It is said, Sir, and said with emphasis that this Ministry is a reactionary Ministry composed mostly of zemindars. But by passing this Bill, they have proved that that is a misnomer and that they are really the People's men. Sir, I never expected opposition from the Progressive Group, but I was surprised to find opposition coming from that great organization which

goes by the name of the Congress. It is always stated at the top of the voice that the Congress stands for the masses and for the amelioration and rehabilitation of the condition of the masses, and still, Sir, opposition has come from that great organization which claims to represent the masses in this country. A serious allegation has been made that the Bill has been passed by "brute force". Sir, I strongly object to the use of that term. My humble submission to the House is that if my friends will compare the provisions of this Bill with those of the other Bills passed by the Congress Ministries, they will at once find that this Bill compares very favourably with those of the other provinces, especially the Money-lenders Act passed by the Congress Ministry. This Bill is more progressive, more liberal in provision and in giving relief to the down-trodden masses of the province. It is said, Sir, that the provisions of this Bill are calculated to dry up rural credit. Whenever a useful measure is passed, whenever a beneficial measures adopted by this Ministry, that old catchword is used that rural credit will be dried up. Then, Sir, it is emphasised that the establishment of Debt Settlement Boards has choked up rural credit. Speaking from my own experience, I must protest against that statement and say that those who are really affected and for whom the cry has been raised, namely, the rural masses, have rarely complained that the establishment of Debt Settlement Boards has affected them adversely. On the contrary, Sir, we find that petition after petition is made and memorials are submitted for the establishment of more Debt Settlement Boards. This shows that they want Debt Settlement Boards, and the cry against these Boards is only coming from those who have vested interests in the province. With all respect, I must warn them. They must take time by the forelock; they must be forwarned that the times are changing very rapidly and very fast. Kaleidoscopic changes are taking place in the world, and India along with Bengal is moving fast with the pace of time. It is a matter of congratulation to the Ministry that they have taken time by the forelock and are marching abreast of time. If we compare the provisions of the Bengal Money-lenders Act of 1933 with the provisions of the present Act, what do we find? We shall find that at that time it was never contemplated that the rate of interest could be lowered to such an extent as 8 or 10 per cent. Previously, it was 18 to 25 per cent., but within the last six years or so, we find that the times have changed very rapidly, and the Ministry has dared to initiate a measure like this in spite of all objections.

Of course, there is some defect in this Bill, but I would ask members to remember that it is a measure of the Coalition Government and any measure sponsored by this Government must have the stamp of inconsistency which I dare say is inevitable in the very nature of things. It has to compromise sometimes with the wishes of the party here and the party there. So, if there has been any compromise, for that the Ministry cannot be blamed.

Sir, I must congratulate the Ministry again on the successful passing of this Bill, and in this respect I cannot but congratulate the Hon'ble Minister in charge, I mean the Hon'ble Nawab Musharruff Hossain, for successfully piloting this Bill in this House. He is, Sir, one of the men of the old tradition and an old politician who has seen the olden days. I can assure him that posterity will remember his name with gratitude and the measure which he has piloted will go to a large extent to ensure the rehabilitation of the credit of the province.

It has been stated, Sir, that it will choke rural credit, and that it will do mischief to the country. In my humble opinion, Sir, I think it will facilitate commerce. Coming from Chittagong which is the centre of small traders, I can say that the effect of the Bill will be reduction in the rate of interest which will go to improve the condition of small traders—not to speak of the rural agriculturists.

With these few words, Sir, I support the motion moved by the Hon'ble Minister.

Mr. H. C. A. HUNTER: Mr. President, Sir, I rise to support the passing of the Bill. Whilst it must be recognised that money-lenders have performed a useful function in the past and that some money-lenders are reasonable and fair, there is no doubt that infinite tarm has been done by the rapacity and harshness of many money-lenders and it is proper—it is a matter of duty as well as of humanity—that steps should be taken to curb and control their activities. But as was pointed out by my colleague, Mr. Laidlaw, yesterday, a danger exists in putting such a measure as this on the Statute Book in that one's generous zeal may rush one into taking such drastic steps as would tend to freeze all avenues of credit for the poor or as would prejudice if not paralyse the credit, the trade and the commerce of the province. Government have wisely endeavoured to avoid these dangers and while I think they have not in all cases been successful, yet the Bill is so admirable in its purpose—the alleviation of the lot of the poor—it contains so many wise and beneficent provisions and it has been so improved in its passage through this Council as to qualify for our very staunch support. But there are still I think one or two provisions the wisdom of which may be doubted. The chief among these is to my mind retroactivity. Having ascertained that the amendment in the name of my party regarding retrospective effect had no hope whatever of being carried I decided not to waste the time of this House yesterday by moving it But not only is retroactivity a dangerous principle but its adoption in this Bill is a most dangerous precedent. (Cries of "hear, hear" from the Progressive Benches.) Consequently, I feel moved to make a quotation from an eminent legal authority in the hope that the Government and this Council will bear his words of wisdom in mind if they should at any future date be tempted to make retrospective provisions in connection with other

legislation. The quotation I wish to make is from Broom's Legal Maxims, 8th Edition, page 24, in which he says—"Retrospective laws are, as a rule, of questionable policy, and contrary to the general principle that legislation by which the conduct of mankind is to be regulated ought to deal with future acts, and ought not to change the character of past transactions carried on upon the faith of the then existing law . . . . Accordingly, it has been said that every statute which takes or impairs a vested right acquired under existing laws, or creates a new obligation, or imposes a new duty or attaches a new disability, in respect of transactions or considerations already past, must be deemed retrospective in its operation, and opposed to sound principles of legislation."

In conclusion, I would like to congratulate the Hon'ble Minister in charge of the Bill for that combination of firmness and tact which alone has rendered possible the passing of so important but contentious a piece of legislation. I should also like to invite the attention of the Government to a remark on page 433 of the Report of the Royal Commission on Agriculture, 1928. "If", they remark, "the money-lender is ever to be driven from the land, it will not be by legislation but by the growth of the co-operative movement." Yet, pending the development of this movement in Bengal, it is necessary to pass a measure such as this to curb and control extortionate money-lenders' activities among the poor and we accordingly give the Bill our whole-hearted support.

Mr. KAMINI KUMAR DUTTA: Sir, at the very beginning I owe an explanation to the Chair. Yesterday I moved that the Third Reading of the Bill be fixed for to-day but was late in coming here this morning. The reason, Sir, is an absolutely personal one. I had to go to the doctor for some personal ailment. I was detained there longer that I had expected. And this accounts for the delay in attending to my duties here.

Sir, as to the attitude of my party towards this Bill, it is not certainly one of opposition to the main principle of the Bill. My party was not opposed and did not oppose the principle underlying this Bill. But we thought that there were some flagrant inconsistencies in the Bill and these we tried to remedy. Unfortunately, we could not have them remedied. As to the policy of the Congress, in respect of legislation regarding the economic uplift of the masses, it is absolutely well-known. The Congress aims at the betterment of the condition of the masses. But this Bill not only aims at the betterment of the condition of the masses; it really affects all classes of debtors, whether big or small. I think as a lawyer having experience of the economic condition of the people belonging to the landed aristocracy as well as to the peasantry, I can say that the landed aristocracy of our country is not at all free from debts, and as I have just said, this

Bill will operate in their favour also as it would do in the case of the cultivators. So, it is a Bill which will help not only the peasants, but most certainly some of its provisions will also help all classes of the people, *bhadralog* class, the landed aristocracy and others.

Sir, ever since the inauguration of the new Constitution, most of the legislations have been directed to secure the uplift of the masses as we call it. The measures enacted have been of a character which really did not benefit either to the middle classes or to the upper classes. It is really with great pleasure that we see that measures are being taken also to give protection to the middle-class and the upper class. These classes also have to exist in the society and they deserve as much protection as anybody else. In respect of debts, the accepted principle, the fundamental principle has been the scaling down of debts, the reduction of interest and provision for easy payment. The economic condition of the country has reached a stage that in spite of every desire to pay, it is not possible for the debtors to pay their debt at once and without some sort of concession or reduction. But at the same time, I am constrained to observe that a very unhealthy atmosphere has been steadily growing in the country not to pay debts at all and to evade payments by adopting all sorts of subterfuges conceivable. We are really pleased to find one redeeming feature in this Bill that judicial Tribunals have not been superseded by creating "autocratic" Tribunals like the Rural Agricultural Debtors Boards. A spirit has grown in the country for supplanting the judiciary by generating want of faith in the judiciary. Remarks I have heard falling even from the lips of responsible people, like the Hon'ble Ministers that the Munsifs or the judicial officers are less competent than the executive officers who have not the least pretensions to judicial training for adjudicating on matters relating to the rights of creditor and debtor. It is forgotten that by making laws alone the debtors cannot be protected. The confidence of the investors and the confidence of the creditors are also to be restored and a spirit to pay up the debts has to be generated among the masses from whom the debtors are principally drawn.

Of course, provision for a reduction of interest, provision for long and easy instalments and for reopening transactions and scaling down debts ought to be made; but at the same time there must be a reciprocal desire to pay up legitimate dues. The Congress principle is to give relief to the debtors but certainly not at the cost of the other classes. The Congress does not want to do away with any class altogether. The Congress is not for the Communistic doctrine. The Congress wants a compromise between all the classes. All should live and one should not benefit at the cost of the other. Neither should the creditor abuse his position to make the life of the debtor miserable. As a lawyer, Sir, I have experience of transactions, I must say, unconscionable

transactions, and it is really this abuse of their position by the money-lenders which was responsible for bringing in the vendetta against them. They are only just reaping the result of their misdeeds. I must admit as a lawyer that I have experience of many transactions in which the confidence reposed by debtors has been abused. But at the same time, I think they are placed in such a position now that these old debts could not any longer be repudiated. It would be our duty at the same time to inspire and to generate a feeling amongst the debtors also that this system of credit is necessary for the existence of the society. You should not destroy that system. If you incur a debt you must pay it. I know that it is the accepted principle of both Hindus and Muhammadans to regard it as a sin to die in debts. As a Hindu I know it, but the feeling of the Muhammadans in this matter also I know. Though I am a Hindu, I am a lawyer. I must admit that the bulk of my income comes not from the Hindus but from my Moslem brothers. I am in intimate touch with them. I owe my bread to them and I am grateful to them. So, I know that the Moslems are reluctant to die in debts. Both Hindus and Muhammadans think that debts must be paid anyhow and it should be our endeavour to see that that feeling is generated.

Sir, in this connection, a matter arises in my mind, about which I have already remarked, namely, that the establishment of irresponsible autocratic tribunals in the country for dealing in matters between the debtors and the creditors will not help the situation in the least. Serious complaints of corruption and misdeeds against these "autocratic" tribunals are in the air. Personally, I know of instances in which the tribunals have been accused of forging records, of accepting bribes and of encouraging any amount of corruption. I would only appeal to those who are in power not to tolerate this corruption to continue any longer. By allowing these corruptions you will not be helping the masses. You will be only helping those who are fraudulent and who try to resort to fraud and get accomplices in their actions of fraud. Really, they should cry halt. Definite steps ought to be taken, drastic steps ought to be taken, to put down these corruptions.

As to the reduction in the rate of interest, the Congress attitude has been one of absolute support. We have not opposed it. As to the reopening of the transactions, no doubt it is a revolutionary measure but at the same time it is not altogether a new principle. Even in the law passed by the Central Legislature, the usury law, there also it recognised the principle of reopening transactions where they may be found to be unconscionable or hard. In this Bill, the same principle has been widened a little. Perhaps some widening is required by the exigencies of the situation created in the country. But at the same time, the utmost precaution ought to be taken because it

is really treading upon a very dangerous principle to reopen a transaction. It may create a feeling of insecurity in the society and to have a feeling of insecurity in the society is a very dangerous thing. But no doubt if one would look round the world while we hesitate to reopen dealings between individuals, big nations in all parts of the globe are reopening transactions Heaven knows, what will happen after the present War. Perhaps the whole civilization may be thrown into the melting pot once again and a different civilization may be established. Be that as it may, there is no gainsaying the fact that the reopening of a transaction creates a feeling of insecurity; but at the same time the rigid principle of not reopening of old transactions cannot also be accepted. There are circumstances where reopening is called for. As I have said, my party was opposed to some inconsistencies and we do still adhere to them. We do not like that there should be distinction in the case of one class of creditors and another; one class of creditors should not be given preference over other classes of creditors. That invidious distinction ought not to have been made. We do still apprehend that it will very seriously affect the future of indigenous banks. I must not conceal also the apprehension which is being felt by many that the retention of power by the Government of "notifying" certain banks may be abused. The general feeling in the country is that the power of notification ought not to have been retained in the hands of Government. All credit institutions of that class ought to have been treated alike. Even as to particular classes of debts, ultimately a distinction has been made. It would have been happier and better if that move had not succeeded, because provisions like that which make distinctions between different classes of creditors, and provisions which make distinctions between different classes of debtors do give rise to misgivings in the minds of the people.

In conclusion, I may tell my friends opposite that measures inaugurated by Government and by the Ministry will be judged on their own merits. I would request them to disabuse their minds of the notion that because a measure is inaugurated by the Coalition Ministry we must oppose it for opposition's sake. We will welcome what is good for the people and will oppose what we in our conscience think is really not beneficial for the people. It will not be judged from the point of view of the party which initiates it but from the point of view of its merits. I hope the Ministry will likewise always consider and judge our action in that light and would never consider that we have taken a pledge to oppose everything that comes from them. I need not dilate further upon the Bill. Our attitude towards the Bill has been quite a clear one. It was not one of opposition, but it was an attempt to make it better. We have failed now, but let us hope, if occasion would arise again, we shall succeed and would be able to join our hands together and make the law a perfect one.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Mr. President, Sir, at the outset I must congratulate my esteemed friend the Nawab Sahib for having piloted the Bill so ably. As a matter of fact, by cutting short his speeches and by saying "I oppose it" or "I accept it", he has saved a lot of time of this House. In many instances, by putting forward reasons in support of his views he has impressed the House to accept the amendments proposed by his party. I offer my congratulation not only on my behalf but also on behalf of my party.

Sir, it has been thought by some members that my party have opposed the Bill from the very beginning for the sake of opposition only; but I can assure the House that the attitude of my party was not only to give relief to the debtors but also, at the same time, to see that the creditor may not be oppressed and that he may not be deprived of his legitimate dues at the cost of this legislation. The principle that my party had accepted was to see that justice be done—in the first instance to see that the debtor is relieved and, at the same time, the creditor gets his dues, I mean "his reasonable dues", which he can expect. My party accepted the principle of reduction of rent and of doing away with compound interest and so forth. But, at the same time, they opposed the principle when the Bill provided for imprisonment of the creditor for no fault of his. Sir, this is a matter which should be seriously considered whether the creditor should be imprisoned for no fault of his. He has advanced money in times of need to the debtor and there might be some inaccuracy of accounts and it might be that he might not have kept the accounts so regularly though not intentionally, but for such mistake one should not be sent to jail. The clause provides both for fine and for imprisonment. The attitude of my party is that a fine is quite sufficient and that a man ought not to be sent to jail for such an offence.

Then, Sir, the Leader of the Congress Party, my honourable friend, Mr. Kamini Kumar Dutta, has rightly observed that since the introduction of this measure, there has been a feeling in the country for non-payment of debts. That is most dangerous. Though the Bill does not provide for non-payment of debts, it has nevertheless created public opinion and a false feeling to that effect among the debtors that the Bill provides for non-payment of debts. I repeat, Sir, that this is most dangerous.

Then, Sir, the principle of the Bill, as we understand it, is to give relief to the debtors but I doubt whether it would be a real relief to the debtors and whether the credit will not be affected in future. I admit, Sir, that it will be a relief at the present moment to some of the debtors, but for the future we are sure that credit will be affected. No one will get money in times of emergency.

The next point which we feel most is that the commercial interest of this country must be saved. The Bill has provided that commercial loan will not be included within the operation of this Bill and will be excluded from the operation of this Bill, but for the ambiguity of some words that have been used in the Bill the object will not be achieved, e.g., the word "solely" has been used in clause 2 where commercial loan has been defined. It has been said that the commercial loan means a loan advanced to any person to be used by such person solely for the purpose of any business. It follows if the debtor takes the loan and utilises a portion of the money for other purpose it will not be a commercial loan. Sir, in order to deceive the creditor some fraudulent person may take advantage of this word "solely" and will bring his loan under the category of this Act. So in order to clear this my party has suggested to substitute the word "mainly" for "solely". But I am sorry we have been unsuccessful. Thus it will hamper the commercial interest of the country.

Then, Sir, my friend Mr. Kamini Kumar Dutta has rightly observed that there should be no distinction between banks and banks. My party has accepted this principle. Banks are not individual persons. Banks have account books and they keep regular accounts for their money transactions and so there need be any doubt as to the accuracy of those accounts. Secondly, Sir, banks never charge interest at a high rate and always keep down interest to a low figure. So both the objects of the Bill a bank does. So, there should not be any distinction between banks and banks, and the view of my party has already been stated, namely, that there should not be any such distinction and that banks should be left to themselves and should not be included within the operation of the Bill and that no indiyidious distinction should be made not only between banks and banks but also between scheduled banks and scheduled banks. I think, Sir, that great injustice has been done to the banks and to commercial community.

I am glad, Sir, that my friends, the European members have suggested an amendment which has been accepted by this House, and I think it has improved the position of the Stock Exchange; otherwise those would also have been affected.

With these few words, Sir, I congratulate again my friend the Hon'ble Nawab Sahib for having successfully piloted this Bill.

Mr. LATAFAT HOSSAIN: Sir, as a representative of the working class, I offer my sincere congratulation to the Coalition Party members of this House for passing this Money-lenders Bill. The jute mill workers and factory labourers who have to pay a heavy rate of interest to the *kabulis* and to other money-lenders will remain ever grateful to those who framed and passed this Money-lenders' Bill.

Mr. KRISHNA CHANDRA ROY CHOWDHURY: Mr. President, Sir, my honourable friend Mr. Dutta has alluded to the spirit of non-payment of loans which is abroad. Does he forget that it was the Congress that engendered the spirit of non-payment of rates, rents and taxes in the United Provinces and Bihar? The Coalition Government has gone only a step further in the interests of the masses and indirectly encouraging the scaling down of debts and rates of interest with the inevitable reaction, namely, the spirit of repudiation of loans.

Sir, it must be remembered that these unconscionable and unscrupulous transactions of the money-lenders, small and large, who are glorified in the name of *mahajans*, the great men of Bengal (laughter), have been hitherto upheld by the bureaucracy, and by the dyarchy which succeeded the bureaucracy, and therefore all credit is due to the Government of the day who have brought forward this piece of legislation which will be remembered as a *Magna Carta*—I say on behalf of the working class, a *Magna Carta* of the workers and peasants over-burdened with debts.

Sir, it is true that certain sections of the Bill will affect the interests of the reasonable money-lenders, but you cannot help it, because in a comprehensive legislation like this a minority has got to suffer, and they must welcome that the majority of the people for whom it is intended are going to be benefited by this Bill.

Sir, from our experience in the working class area, we know that many of the strikes are engineered or prolonged by money-lenders, because they know, when a strike is on, that the workers will be in difficulty, they will be helpless and they will be borrowing money at any rate of interest dictated by lenders.

Mr. Hunter has alluded to the retrospective effect of this Bill, or reopening of transactions as it was alluded to by Mr. Dutta. When there is a contract between a very weak and a very strong party, does it stand to reason that such contract or the sanctity of contract should not be reopened? Was not the Treaty of Versailles itself reopened with the result that Hitlerism has come to play? This happened because in the opinion—it is not my opinion—but of a great British thinker like Wells, that was a treaty between the weak and the strong. There is bound to be a reaction when there is a contractual obligation between very weak and very strong parties. Sir, with due respect to Mr. Hunter, I say that the sanctity of such contracts or reopening of unconscionable contracts has to be seriously considered when the contract is between very weak and very strong parties.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Sir, I am grateful to my friends for helping me to finish this Bill. Before I enter into controversial points I must thank members of this

Council for the co-operation and support that they have given me in this measure without any exception whatsoever. I do not say that criticism has not produced its effect. Even during the discussion, criticism took place and we changed our mind. So, when we have worked together for the common good and to serve a common purpose, every point that was raised was dispassionately considered by us, and we tried our best to solve every problem that came before us without any passion or prejudice.

You must have seen the vacillation on the part of some of us. That vacillation is not due to our want of knowledge of the subject, but that vacillation is more due to the weight and respect that we have shown to every proposal that has come to us. I have always tried to postpone things not because I could not do or carry anything by sheer weight of brute force as my friend has said—I must say that it is an expression which ought not to have been used—but because I have always tried to carry the point by argument and reasoning. Whenever there was a controversy going on in the House, I carefully considered everything that came from the lips of all sections of the House and after mature consideration I sometimes accepted amendments from the Opposition also and where the Opposition refused to move their amendments, I had the amendments moved by a member of our party and carried the same. That shows, really speaking, that we have been actually trying to do the work not in a very autocratic spirit but in a co-operative spirit and I must admit that I have been benefited by the reasoning and arguments of my friends of all sides of the House. I do not like to enter into any controversy at this last stage of the Bill. I think I should express my gratitude not only to my friend who has given me suggestions while being seated close to my hand but I must also express my gratitude for the assistance that I have received from the Coalition Group and Khan Bahadur Naziruddin Ahmad and others who have actually helped me in opposing a lot of amendments.

Mr. PRESIDENT: Order, order: I must remind the Hon'ble Minister that he must not take notice of or refer to those who are in the official or visitors gallery.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: I beg your pardon. I was referring to Khan Bahadur Naziruddin Ahmad who helped me in improving the text of the Bill. Many amendments proposed by Government and proposed by him cured a lot of defects which existed in the Bill, as it came out of the Lower House. All these amendments ought to have been considered in the Lower House and the Bill should have come to this House in a better manner.

Mr. PRESIDENT: There again, no reference should have been made by the Hon'ble Minister to the Lower House, especially the reference that the Bill should have come to this House in a better manner.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: I bow down to your ruling, Sir. When we accepted a lot of amendments, I must say that these amendments were of a technical nature and they tended to improve the text or the language of the Bill. Only one material alteration has been made and that is in respect of clause 40 of the Bill. The original provision was that when a document was registered, money ought to be paid before the Sub-Registrar. But after mature consideration we found that it would do more harm than good. In the ordinary course a document is only registered after 4 months from the date of the document, and it is for this reason that we omitted that section. We have also made some minor alterations here and there which, I think, are in keeping with the spirit of the times. I am grateful, Sir, not only to the members of the Coalition Party but also to the members of the European Group for the consideration they have always given to our proposals and to the interests of the masses and they had sometimes to change their own point of view. In one instance, Mr. Hunter wanted to do away with the retrospective provision made in the Bill. But as he found that he should work with a party with whom he had been working so long, he did not move his amendment. I may tell him, as my friend Mr. Kamini Kumar Dutta has already said, that the reopening of accounts is not a new point. The idea of reopening accounts was started in 1918 when the Usurious Loans Act was framed by the Government of India. That Act provides everything that has found a place in sections 33 and 34 of this Bill. The only difference between that Act and this is this that the Usurious Loans Act provides for the reopening of the accounts when the Court is satisfied that it is usurious or a higher rate of interest ought not to be allowed whereas in this case owing to the economic condition of the country we have had to go a little further, and we have provided that in all cases the court will have the right of reopening accounts. We have made no revolutionary changes. All these things will be done by the judiciary or the courts of law who are trained to do the work in a judicial way and not in an executive fashion. I do not believe that the judicial system has failed and should be replaced by anything. When that will be my idea, I will cease to be in charge of the portfolio which I am now holding. I know that power is given to the judiciary to do everything in a just and proper manner according to the law. I do not believe that my friend Mr. Kamini Kumar Dutta will be able to say that the corruption which he has alleged against the Debt Settlement Board will apply to the judiciary.

Mr. KAMINI KUMAR DUTTA: No, it does not.

The Hon'ble Nawab MUSHARRUF HOSSAIN, Khan Bahadur: He says that it does not. That is sufficient testimony to the judicial system and the judicial officers who are working for the good of the country. The provision that the judicial system or the judiciary will open accounts and do justice to the cases is not at all likely to be misused. Everything will be done in a methodical and in a legal manner and there is not the slightest doubt that they will not actually mismanage the thing and spread disaffection in the country. I believe in their capacity and I know that they will do their work in the right and proper manner.

My friends have said that we are inconsistent and that some of the provisions of the Bill are inconsistent. They say that we have made distinction between banks and banks. I may say though I have repeated it several times before that there are no banks in Bengal excepting 4 or 5 banks who have been given the privilege of working unfettered. If I knew that there were other banks, I would not have hesitated to do all that I could do for them. They say, "I cannot understand why there is this distinction". Do they mean to say that all these banks that have closed their doors and are not helping anybody with advances are banks which ought to be protected at this stage when they are in liquidation? If that had not been the condition in the country, we would all be helping all these banks.

Even now, we say that the doors of wisdom are not closed. You have already provided in the Bill that some banks will be notified by Government. Let banks be started which will work for the good of the country and what objection can there be on the part of Government to notify such banks and to give to them all facilities of work? I do not believe that the apparent inconsistency which my friend sees in our action is a real one.

Then, my friends have said that we have made distinction between debtors and debtors. I also equally say that I do not find any distinction like that. The debtors of co-operative societies are principally their own men. But I may tell you that we are dealing with money-lenders who are not in the least concerned about their debtors. I said the other day that co-operative societies manage their own affairs. They take the money from their own pocket. So, how can I close such institutions and say that they should not co-operate with each other to get rid of indebtedness of theirs. That is the distinction between a debtor and a debtor. I do not believe that in reality there is any distinction at all between debtors of the same class. One is not a real debtor and one is not a real creditor. So, I do not find any distinction

there. This, I believe, will remove any doubt that my friends might have had about the apparent inconsistency which they actually see at present.

My friend, Mr. Sarkar, has raised one or two other points but he spoke in so low a voice that I could not really hear what his points were. However, I may say in a general way that he also has helped me by giving his own opinion in a bold manner. I give him credit for the boldness that he has shown in advocating the cause of the money-lenders. I may say that his speeches also helped me in changing many clauses of this Bill. I do not say that he acted as an enemy to me but he was of real help to me.

As regards my friend, the Raja Bahadur of Nashipur, I may say that we worked together in the last Council. We were colleagues. Now, I am alone here and I hope time may come when we may have the opportunity of working together again and do good to the country with joint deliberation and joint effort. He was of great help to me. He was very sore when he could not get his amendment accepted. If his amendment would have been accepted, it would have reopened a compromise which was effected between members of the Coalition Party and others. The members of the Coalition Party were also very sore and they said that "commercial loan" means a loan which is contracted "only" for commercial purposes and not "mainly" for commercial purposes. So if I accepted my friend's amendment, that sacred compromise which has been effected between the parties would have been shattered. I, therefore, could not think of my friendship and against my own desire, I had to bow down to the opinion of my party and so had to reject his amendment. I hope he will not mind it at all.

Lastly, the most important part, I must admit, taken by any person in the House in respect of this Bill is yourself, Sir. You have been a tower of strength so far as the real rights of the House are concerned. Sir, you have tried to uphold the dignity of this House—although I am not a member of the House in an ordinary sense. My friends and comrades have all co-operated with me and we are all proud of your sense of dignity, integrity and intelligence. Sir, we have got a lot of assistance from you and the great ability and integrity that you have shown in the discharge of your onerous duty is really worthy of emulation. I may say this much that I owe to you a lot for successfully piloting this Bill. Sir, you have assisted us by your wise counsel. Although once I resented one remark of yours and we fell out, I had ultimately to admit that I was wrong. Such temporary display of temper did not affect your calm deliberation and judgment. Sir, I am grateful to you for the help and assistance you gave to this House in bringing the whole matter to a successful conclusion. Sir, I have nothing more to add.

Sir, you have ruled that I cannot speak about the assistance that I have received from the Secretary—

Mr. PRESIDENT: That is not the point. You can certainly refer to the assistance that you have received from your officers but you cannot refer to it by pointing to the gentlemen sitting in the galleries. That is only for future guidance. I hope you won't mind it.

The Hon'ble Nawab MUSHARRUFF HOSSAIN, Khan Bahadur: Thank you, Sir. I must express my gratitude to the officers of the Secretariat who have helped me a good deal in piloting this Bill. I took the opinion of the Secretaries on every amendment that was moved in this House and they carefully considered every one of them and gave me their views and for this work, I must give them my whole-hearted thanks.

I must also say that my friend and colleague, Sir, Nazimuddin, was of very great assistance to me and whenever we had a very difficult time and we could not actually come to any conclusion, his tact and his ability helped us a good deal, and I am grateful to him for all that he has done.

As regards my friends of the Coalition Party, I must say that each and everyone of them had been of great assistance to me in successfully piloting this Bill. I now hope that the Bill, as settled in the Council, will be passed.

Mr. PRESIDENT: The question before the House is: that the Bengal Money-lenders Bill, 1939, as settled in the Council, be passed.

(The motion was agreed to.)

(Loud cheers from all sides of the House.)

The Bengal Agricultural Debtors (Amendment) Bill, 1939.

The Hon'ble Mr. MUKUNDA BEHARY MULLICK: Sir, I beg to move that the Bengal Agricultural Debtors (Amendment) Bill, 1939, as settled in the Council, be passed.

Mr. PRESIDENT: Motion moved: that the Bengal Agricultural Debtors (Amendment) Bill, 1939, as settled in the Council, be passed.

The question before the House is: that the Bengal Agricultural Debtors (Amendment) Bill, 1939, as settled in the Council, be passed.

(The motion was agreed to.)

Prorogation.

Mr. PRESIDENT: I have it in command from His Excellency the Governor that the Bengal Legislative Council do now stand prorogued.

Members absent.

The following members were absent from the meeting held on the 19th January, 1940:—

(1) Khan Bahadur Naziruddin Ahmad.
(2) Rai Bahadur Keshab Chandra Banerjee.
(3) Mr. Humayun Reza Chowdhury.
(4) Khan Bahadur Rezzakal Haider Chowdhury.
(5) Mr. Bankim Chandra Datta.
(6) Mr. Narendra Chandra Datta.
(7) Khan Bahadur Alhaj Khwaja Muhammad Esmail.
(8) Khan Bahadur Saiyed Muazzamuddin Hossain.
(9) Khan Bahadur Maulvi Muhammad Ibrahim.
(10) Alhaj Khan Bahadur Shaikh Muhammad Jan.
(11) Khan Bahadur M. Abdul Karim.
(12) Mr. Naresh Nath Mookherjee.
(13) Dr. Radha Kumud Mookerjee.
(14) Rai Bahadur Satish Chandra Mukherjee.
(15) Mr. H. P. Poddar.
(16) Khan Bahadur Mukhleshur Rahaman.
(17) Khan Bahadur Kazi Abdur Rashid.
(18) Mr. J. B. Ross.
(19) Rai Bahadur Radhica Bhusan Roy.
(20) Mr. Sachindra Narayan Sanyal.

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(i) Wharton's Law Lexicon; (ii) Stroud's Judicial Dictionary; (iii) Palgrave's Dictionary of Political Economy; (iv) Wynes' Legislative and Executive Powers in Australia (page 142); (v) Clement's Constitution of Canada; (vi) Halsbury (Vol. 1), page 782; (vii) Jenning's Constitutional Laws of the British Empire; (viii) Sir Maurice Gwyer's judgment in the Motor Spirit Taxation Act Case (2 F.L.J.), page 49; (ix) Lord Haldane, Attorney-General of British Columbia vs. Attorney-General for Canada, A.C. (1914), page 153; (x) Tenant vs. Union Bank of Canada, A.C. (1894), page 46; (xi) State Savings Bank of Victoria Commissioners vs. Pernewan Wright & Co., Ltd., G.C.L.R. (1915), page 457; (xii) Attorney-General for Ontario vs. Attorney-General for Canada, A.C. (1912), page 571.

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Motion moved by—that the Fifth report of the Committee of Privileges on the comments appearing in the "Azad" of the 30th May, 1939, imputing motive to certain members of the Council for their absence, be referred back to the Committee of Privileges. Pages 898, 901, 902.

Motion moved by—for the consideration of the Bengal Public Demands Recovery (Amendment) Bill, 1939. Page 1018.

Singh Roy, the Hon'ble Sir Bijoy Prasad— *contd.*

Motion moved by—for the passing of the Bengal Public Demands Recovery (Amendment) Bill, 1939, as settled by the Council. Page 1020.

Notice by—of the motion for referring the Bengal Land Revenue Sales (Amendment) Bill, 1938, to a Select Committee. Page 32.

Notice by—of the motion for circulating the Emergency Rent Remission Bill, 1938, for the purpose of eliciting opinion thereon. Page 32.

Observations by—on the question whether previous sanction as contemplated under section 299 of the Government of India Act, 1935, is necessary to move for the consideration of the Bengal Patni Taluks Regulation (Amendment) Bill, 1938, as reported by the Select Committee. Pages 842, 843, 844.

Point of order raised by—that the Bengal Prohibition Bill, 1938, could not be moved without previous sanction of the Governor as the Bill involved expenditure from the revenues of the province. Pages 154-156.

Request made by—for further extension of the time for submitting the report of the Select Committee on the Bengal Patni Taluks Regulation (Amendment) Bill, 1938. Page 356.

Speech by—regarding Bengal Prohibition Bill, 1938, for reference to a Select Committee. Pages 156-157.

Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur—

Amendments moved by—to the clauses of the Bengal Money-lenders Bill, 1939. Pages 395-396, 411, 592, 757, 778, 912.

Motion by—for referring the Bengal Money-lenders Bill, 1939, to a Committee of the whole Chamber. Page 106.

Point of information raised by—as to the function of a bank. Pages 671, 672.

Sinha Raja Bahadur Bhupendra Narayan, of Nashipur— *contd.*

Point of order raised by—as to whether sub-clause (*13*) (*d*) of clause 2 of the Bengal Money-lenders Bill, 1939, regarding exclusion of certain scheduled banks from the scope of the Bill is *ultra vires*. Page 943.

Question by—regarding investigation into the causes of flood. Pages 17-18.

Question by—regarding flood in Bengal. Page 64.

Question by—regarding recruitment of Secretariat clerks. Page 95.

Question by—regarding causes of floods. Page 114.

Question by—regarding contribution from, expenditure of, and formation of a Road Development Committee. Pages 115-116.

Question by—regarding licence for holding melas and fairs. Pages 120-121.

Question by—regarding control over the Library of the Legislature. Pages 139-140.

Question by—regarding forfeiture of security deposits by newspapers. Page 179.

Question by—regarding the Bengalee employees of the German Firms. Page 563.

Question by—regarding floods in Bengal. Page 811.

Question by—regarding jute trade. Page 1038.

Remarks by—as to the attitude of his party on the question of time that they will require for giving notice of amendments to the Bengal Money-lenders Bill, 1939. Page 128.

Remarks by—on the absence of the Hon'ble Ministers from the meetings of the Upper House. Pages 498-499.

Speech by—on the resolution regarding the advisability of the Bengal Board of Film Censors exercising stricter control in regard to films and the publication of film pictures in newspapers. Pages 81-82.

Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur—*concld.*

Speech by—on the amendment moved by Rai Keshab Chandra Banerjee Bahadur to the resolution on war moved by Rai Surendra Narayan Sinha Bahadur. Pages 332-334.

Speech by—on the amendment moved by Mr. Ranajit Pal Chowdhury to sub-clause (*10*) of clause 2 of the Bengal Money-lenders Bill, 1939. Pages 404-405.

Speech by—in appreciation of the services of the Hon'ble Mr. Nalini Ranjan Sarker. Page 437.

Speech by—in appreciation of the services of the retiring Council Secretary, Mr. K. N. Majumdar, M.A. (Cantab.), Barrister-at-law. Pages 514-515.

Speech by—on the amendment moved by Rai Bahadur Surendra Narayan Sinha to sub-clause (*1*) of clause 24 of the Bengal Money-lenders Bill, 1939. Page 750.

Speech by—on the motion that the Fifth report of the Committee of Privileges on comments appearing in the "Azad" of the 30th May, 1939, imputing motives to certain members of the Council be referred back to the said Committee. Pages 903-904.

Speech by—on the Bengal Money-lenders Bill at its third reading. Pages 1056-1057.

Supplementary question by—regarding utilization of licence fee on melas and fairs. Page 122.

Supplementary question by—regarding the jute *fatkae* market. Pages 391, 392, 393 and 394.

Supplementary question by—regarding the employees in the civil courts. Page 465.

Supplementary question by—regarding the Malibani Debt Settlement Board in Gaibandha subdivision. Page 644.

Sinha, Rai Bahadur Surendra Narayan—

Amendments moved by—to the motion for the consideration of the Bengal Workmen's Protection (Amendment) Bill, 1939. Pages 255-256.

Amendments moved by—to the clauses of the Bengal Money-lenders Bill, 1939. Pages 270, 399-400, 554, 555, 557, 558, 559, 575-576, 578, 586, 591, 740-741, 746, 749, 752, 755-756, 763, 777, 781, 784, 794, 796, 912, 934-935, 969.

Amendments moved by—to the clauses of the Bengal General Clauses (Amendment) Bill, 1939. Pages 442, 443 and 444.

Amendments moved by—to the clauses of the Bengal Agricultural Debtors (Amendment) Bill, 1939. Page 1022.

Motion by—regarding the Bengal Abolition of Dowry Bill, 1938, for consideration. Pages 145 and 146.

Motion by—for circulating the Bengal Money-lenders Bill, 1939, for eliciting opinion thereon. Page 105.

Point of order raised by—regarding the Bengal Money-lenders Bill, 1939, being *ultra vires* of the Provincial Legislature, being hit by items Nos. 28, 33, 38, 42, 53 and 59 of the Federal List of the Constitution Act. Page 125.

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Question by—regarding operation of the Government of India, Adaptation of Indian Laws Order, 1937. Page 5.

Question by—regarding Honorary Magistrates. Page 9.

Question by—regarding embankment of the Mayurakshi river. Pages 63-64, 386-387.

Question by—regarding separate accommodation for Council. Page 177.

Question by—regarding silk industry in Bengal. Pages 456-457.

Question by—regarding control of the prices of food-stuffs. Pages 566-568.

Sinha, Rai Bahadur Surendra Narayan—*contd.*

Resolution moved by—regarding training of the Bengalees in aviation. Page 223.

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Speech by—on the motion for the circulation of the Bengal Shops and Establishments Bill, 1939, for eliciting public opinion. Page 247.

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Speech by—on the Report of the Committee on Public Accounts and Demands for Excess Grants for 1937-38. Pages 468-469.

Speech by—on the Supplementary Estimates of Expenditure for 1939-40. Pages 477-478.

Speech by—on the amendment moved by Mr. Amulyadhone Ray to sub-clause (*13*) (*d*) of clause 2 of the Bengal Money-lenders Bill, 1939. Pages 966-967.

Amendment moved by—to clause 2 of the Bengal Public Demands Recovery (Amendment) Bill, 1939. Page 1019.

Speech by—on the amendment moved by Mr. Nur Ahmed to sub-clause (*d*) of clause 2 of the Bengal Agricultural Debtors (Amendment) Bill, 1939. Pages 1025-1026.

Speech by—on the amendment moved by Mr. Kamini Kumar Dutta to clause 3 of the Bengal Agricultural Debtors (Amendment) Bill, 1939. Page 1028.

Speech by—on the Bengal Money-lenders Bill, 1939, at its third reading. Pages 1041-1042.

Suggestion by—to refer the point of order as to whether the two paragraphs (*d*) (*i*) and (*e*) of sub-clause (*13*) of clause 2 of the Bengal Money-lenders Bill, 1939, are *ultra vires* of the Provincial Legislature, to the Federal Court through the Governor-General. Pages 416-417.

Sinha, Rai Bahadur Surendra Narayan—*concld.*

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Suhrawardy, the Hon'ble Mr. H. S.—

—lays the Bengal Raw Jute Futures Ordinance, 1939, and the Bengal Hessian Cloth Futures Ordinance, 1939, as promulgated by the Governor, on the table. Page 30.

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Motion by—for introduction of the Bengal Shops and Establishments Bill, 1939, and also notice for reference of the Bill to a Select Committee. Pages 191-192.

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Remarks by—on the suggestion of the Chair regarding the time for taking up the amendment for circulation of the Inland Steam Vessels (Bengal Amendment) Bill, 1939. Page 193.

Reply by—to the criticism by the members of the Report of Committee on Public Accounts and Demands for Excess Grants for 1937-38. Pages 473-477.

Reply by—to the speeches of the members of the Council on the Supplementary Estimates of Expenditure for 1939-40. Pages 511-513.

Speech by—on the Bengal Shop Hours and Shop Assistants Bill. 1938. Pages 143-144.

Speech by—on the admissibility of an adjournment motion tabled by Mr. Shrish Chandra Chakraverti on the ground of the abnormal rise in prices of commodities of daily necessity. Page 189.

Speech by—on the privilege motion moved by Dr. Radha Kumud Mookerji regarding the absence of the Ministers from the meetings of the Upper House. Page 504.

Speech by—in appreciation of the services of the retiring Council Secretary, Mr. K. N. Majumdar, M.A. (Cantab.), Barrister-at-law. Page 513.

Speeches by—on the point of order raised by Rai Sahib Indu Bhusan Sarkar as to whether certain clauses of the Bengal Money-lenders Bill, 1939, relating to banking and promissory notes are *ultra vires* of the Provincial Legislature. Pages 667, 668, 709, 710-712, 724, 725.

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APPENDIX.

Authorised English Translations of Bengali Speeches delivered at the meetings of the Bengal Legislative Council during its November-January Session, 1939-40.

I.—Resolution urging the Government to take effective steps for introducing physical drill in Primary schools and military drill in Secondary schools and colleges throughout the province.

(Speech delivered on 24th November, 1939; see pages 68-69.)

Maulana MUHAMMAD AKRAM KHAN: Three points have been made in this resolution. In the first place it has been said that provision should be made for compulsory physical drill for every primary school student in Bengal; I cannot say whether the word student in English includes girl students as well. Secondly, military drill should be a compulsory subject for every Secondary school student. Thirdly, all college students should, along with military training, be taught military science.

In regard to this, I would like to address a few words to the honourable mover of the resolution, as also to this House. A long standing stigma which has been attached to the Bengalis is that they are not a martial race. If this stigma is to be removed, some sort of a military training institution should be established and through it military training should be imparted to that section of people in Bengal who are naturally endowed with physical strength. Leaving this alone, we find that most of the boys in this country lack the physical strength and the power to endure hardship which are a pre-requisite to undergoing the drill exercise every day. Although I never crossed the threshold of any Bengali or English school, still I am the guardian of eleven students and in this capacity I have come to know something about students. Next, we know how many primary schools, madrassahs, provincial schools, etc., have been established by Government in this country. What is the age of the students attending primary schools in the villages and from what distance do they come? Perhaps, most of you are aware that these little boys have to walk through 1½ or 2 miles to their schools. Finishing their breakfast in the morning with a little quantity of boiled rice steeped in cold water overnight, or with a little quantity of boiled rice and potato, they walk 1½ or 2 miles, take their lessons for 3 or 4 hours and have to bear with the thrashing given by their

teachers. If, then, at a moment when their stomach is empty, they are made to undergo the drill exercise it will be hardly possible for them to keep their body and soul together. Of course, I do not oppose this resolution. But then my submission is that if you want to make physical drill compulsory in primary and secondary schools and at the same time, prevent the extinction of your descendants, you should also make the provision that they must not be made to take the exercise of drill with an empty stomach. This is the only exception I take.

II.—Resolution urging the Government to introduce physical drill in Primary schools and military drill in Secondary schools and colleges throughout the province.

(Speech delivered on 24th November, 1939; see pages 75-76.)

Khan Bahadur Maulvi MUHAMMAD IBRAHIM: Sir, Mr. Pal Choudhury's resolution well deserves our attention and is also worth supporting. For, if India any day takes part in freedom's battle, it is only meet and proper for us, Bengalis, to give military training to our children exactly as the Punjabis are doing with regard to their own wards. This is because the time may come when the Punjabis may well say to us: "Why should the Bengalis have any share in the independence of India which we have done so much for?" Hence, the Bengalis will lag far behind on that occasion and nothing will be able to give them any protection. But it is necessary to take into account a fact concerning environments which lies at the root of such a state of affairs. Akram Khan Saheb has made a very true statement. The condition prevailing here is such that not a sufficient number of teachers are available for the Buchanan system of training, Bratachari training, etc., which have been introduced here for imparting physical training. In particular, the quality of food taken by boys is so bad that they are, so to speak, almost starved. Of course, provision for tiffin has been made in certain places, but this too is limited to spending four annas a month! That means, half a pice a day! I think Government are doing something in that direction. Hence, I am at a loss to make out how our boys, starved as they are, can have military training.

You can, of course, remonstrate: "Why should not the boys in Bengal have the training that the boys in the Punjab are getting? Is Bengal in a worse condition than the Punjab?" Even though Bengal is in a better condition than the Punjab, still this resolution will, perhaps, be more befitting if Government here first make proper provision for the supply of food to our boys.

Secondly, where can we have the teachers from? Primary and secondary schools are not so well off. I am connected with a certain school. I appointed ten Physical Instructors in three years. But I could

not make any one of them stick to his job, simply because they are in great demand in Government schools. In these circumstances, where will the trained teachers for primary and secondary schools be available? Hence, I am prepared to support Mr. Pal Choudhury's resolution if this arrangement is made after providing for the trained teachers required. Had this resolution been brought forward after making provisions for trained teachers and supply of food to boys, as stated by Akram Khan Saheb, I would have supported it whole-heartedly.

III.—Resolution urging the need for stricter control by the Bengal Board of Film Censors in regard to films which might inculcate immoral ideas in the minds of young boys and girls.

(*Speech delivered on 24th November, 1939; see page 80.*)

Maulana MUHAMMAD AKRAM KHAN: Mr. President, with your permission I propose to move a short notice amendment deleting the words "in the newspapers" from the third line of the resolution placed before the House. Although I do not claim to possess any expert knowledge about cinemas, I may say that the handbills and posters about cinema films which one comes across on the streets are far more objectionable than the advertisements which appear in the newspapers. If an attempt is now to be made to penalise the newspapers without taking any steps to stop the exhibition of such posters and distribution of those handbills, it would really be doing injustice to them. Already the newspapers have to be conducted under the strict control of the Press Act and the Press Censor. If over and above all these, they are now to be controlled by the Board of Film Censors, the whole world will form an idea that the newspapers in Bengal are conducted in a very objectionable manner, so much so that they have to be restrained by passing a resolution in the Legislature.

IV.—Resolution urging the need for stricter control being exercised by the Bengal Board of Film Censors in regard to films which might inculcate immoral ideas in the minds of young boys and girls.

(*Speech* *see page 82.*)

Khan Bahadur Maulvi MUHAMMAD IBRAHIM: Mr. President: Bioscope and the talkie are wonderful scientific inventions. These may be utilized for better purposes—knowledge of History, Geography, Hygiene and other useful subjects may be disseminated through them. But as these are being conducted on business lines, the businessmen cannot but tinge them in various ways simply to subserve their commercial ends. The pictures that are shown hardly help young boys

and girls with plastic minds to keep to the right track. A film entitled "Loyla-Majnu" had been shown in our district, after which a boy and a girl committed suicide. They loved each other like Loyla and Majnu. Their parents having refused a marriage between them, they committed suicide. This suicide was an outcome of the cinema. It is impossible to enumerate the harm that cinema has done to society. Nowadays, girls from *Bhadralog* families in Calcutta have taken to cinema as a source of earning. The extent of harm to our society which has followed in its wake defies all efforts at calculation. I am, therefore, of opinion that Government should accept the resolution moved by the Rai Bahadur. In order to keep the society under control, it is necessary to exercise still greater vigilance on the cinema. School and college students who go to the cinema cannot help being spoiled. Even old people like us are sometimes swept off our feet, not to speak of boys and girls! Hence, the resolution for controlling films which has been moved by the Rai Bahadur is, I think, a very reasonable one and ought to be accepted by the Government. I support the resolution with all my heart.

V.—Resolution on the War Situation.

(*Speech delivered on 13th December, 1939; see pages 344-345.*)

Khan Bahadur Maulvi MUHAMMAD IBRAHIM: Sir, it is universally admitted that the strong preys upon the weak. The strong is always ready to pounce upon the weak, this constitutes animality. Animals like lions, tigers, etc. devour smaller animals like goats, sheep, dogs, cats, etc.

To-day, Nazi Germany, possessed of brute force, has become ready to swallow Poland, her weak neighbour. Similarly, Russia is after victimizing Finland. Both in men and money, Poland and Finland are respectively weaker than Germany and Russia. It can certainly be said that Poland and Finland constitute the minorities while Germany and Russia the majorities. Hence, if a nation comes forward to protect the weak from the clutches of the strong, it is certainly very noble on its part. That England has to-day come to the rescue of weaker nations like Poland, speaks volumes for her greatness.

We, Indians, have been living in the closest touch with England for the last century and a half. We are living under her rule. Hence, India, and for the matter of that Bengal, has a distinct duty to discharge towards England in the matter of giving her help in this war. Give and take is the law of the world. During the last great war we helped England with men and money and in return we have got new reforms ushering in Provincial Autonomy. Though it is replete with various defects, still we have been getting along with it. True, we have not got the full measure of Provincial Autonomy, but still all that we have got enabled an insignificant man of my type to secure a

seat in the Legislature and to have the privilege of saying a word or two. This is no small gain. Hence, there is enough reason to help England at this time.

My point is that England has taken up arms to protect the weak and the minorities. Hence, I believe that those minority communities who are here will also not be left out of account. England will protect them as well. For all these reasons, I support the proposal for introducing Dominion Status in this country. The Moderate Congress too had this as its policy. It is not desirable that we should have independence all at once. For, it requires time to gain strength enough to maintain independence.

Hence, our first objective should be Dominion Status. I wholeheartedly support the resolution which has been brought forward for Dominion Status without prejudicing the rights of any community.

VI.—Resolution urging the reconstitution of the Province of Bengal on the basis of linguistic homogeniety.

(Speech delivered on 5th January, 1940, see pages 609-610.)

Mr. MOAZZEMALI CHOWDHURY: Sir, in going to discuss this resolution it strikes me that from the point of view of principle there is nothing to object to it In fact, I do not think there is any difference of opinion with regard to forming a province on a linguistic basis. As far as I remember, Desh Gourab Subhash Chandra Bose himself moved a resolution like this before the Subjects Committee of the Bengal Provincial Conference at its Berhampur session. In that Subjects Committee I was also present as a member. I objected to that resolution on several grounds which are as follows: If the attempt to bring all the Bengali-speaking population together within the province of Bengal leads to Singhbhum, Manbhum, and Sylhet being included in Bengal, it is most likely to affect the present Moslem majority in Bengal. Hence, if this resolution is moved and adopted by the Congress, it will certainly intensify the hatred and distrust which a section of the Moslems bear against the Congress. To-day, Bengal has actually a Moslem majority. Any attempt to reduce that majority into a minority will not be a judicious one in view of the present tension among the Hindus and Moslems. In these circumstances, it will not be expedient to bring forward a resolution like this, although there is nothing to take any exception to it, either for argument's sake or for the sake of principles involved. This is what I said at the meeting of the Subjects Committee of the Berhampur Conference.

In particular, I said both to the Hindus and the Moslems that to my mind the wise course would be neither to move nor to accept any resolution of this nature so long as the Hindus and the Moslems of Bengal could not sink their differences, so long as they failed to arrive at

a real settlement among themselves and so long as they could not bury the hatred which they bore to one another. Those among us who attended the Berhampur conference, perhaps, remember that I urged all these points and, in consequence, the Hindu members of the Congress who were present there let the resolution alone. And I think it will be quite in the fitness of things if my friend Kamini Babu withdraws his resolution here on the same grounds as those which prevailed with the nationalist members of the Berhampur Conference when they dropped a resolution of this nature. At the same time, I beg to submit that opposing this resolution does not mean that the resolution has no reason or principle behind it. My only object in opposing it is to remove from the minds of the Moslem masses the false and incorrect notions about Congress which have been sought to be inculcated and to help the growth of faith instead. As the result of such resolutions, the Moslem masses will move away from the Congress. Hence, I do not think that those who seek to bring forward this resolution at present will be justified in their action.

Be it to-day or to-morrow, the Hindus and the Moslems are bound to be reconciled to each other. A time will come when they will trust one another and then this resolution will be unanimously adopted. But if it is brought forward to-day, the existing quarrel between the Hindus and the Moslems will become all the more acute. With these words, I request the withdrawal of this resolution. (Dr. RADHA KUMUD MOOKERJI: Who will withdraw it? The mover is absent.)

VII.—Extract from "Palli Payagam" quoted by Mr. Lalit Chandra Das while moving his resolution on the 5th January, 1940, urging the need for appointing a committee to devise ways and means for resolving communal tension in the district of Noakhali.

(*See pages 616-617.*)

"Many people enquire about what has happened to the order transferring Sadar Subdivisional Officer, Mr. Ahmed Mian, to a different place. Many people also enquire if there is any connection of the trips of several individuals of this place and a certain M.L.A. to Calcutta, as soon as the news of the transfer of the Subdivisional Officer reached here, with the postponement of the order of transfer. We request the Government to consider whether it is ever possible for a Magistrate to discharge his judicial duties and to do the work of administration impartially at a place where he is posted, if through the efforts of any particular individual of the place or of any particular member of the Legislature his transfer from the place is actually postponed. If the order transferring the Subdivisional Magistrate Mr. Ahmed Mian has been cancelled or postponed through the efforts of any persons, there is good reason to believe that he has become a

mere puppet in the hands of those persons. No matter whether the rumour of the efforts on the part of any particular individual is true or false, we do not think it will be proper for the Government to keep Mr. Ahmed Mian posted at the place at a time when the matter has become a subject of gossip in the district. We draw the attention of the Divisional Commissioner and the Government to this matter."

VIII.—Resolution urging the appointment of a committee to devise ways and means for improving the communal tension in the district of Noakhali.

(Speech delivered on the 12th January, 1940; see pages 819-20.)

Maulana MUHAMMAD AKRAM KHAN: Mr. President, on listening to the speech of my friend Professor Radhakumud Mookerji, I do not know why I feel inclined to speak. This is why I wish to say a word or two. The statements which the learned professor has made at several places in his speech clearly show that because the Congress Governments have been accused by the Moslems in different provinces and because various charge-sheets have been framed against them, therefore, for political reasons it is necessary to frame a charge-sheet against this Government (the Bengal Government) as well, no matter whether there is any evidence for it or not.

Dr. RADHA KUMUD MOOKERJI: (English.)

Maulana MUHAMMAD AKRAM KHAN: In the course of a discussion of this resolution the other day, there were direct references about a certain M. L. A. To-day there have been indirect references to him. The discussion here centres round what was, perhaps, said by that M. L. A. outside the House. But I can name many M. L. A.'s who have delivered speeches of a more serious and dangerous nature. Hence, in my opinion no discussions should be made here about the speeches delivered outside the Assembly Chamber.

Next, my friend Dr. Mookerji has named a distinguished person of Noakhali, Mr. Lutfar Rahman (?). He is a barrister and an educated man. He must be a great man, because he went out with pieces of cloth and rice to serve humanity in distress. I bow to him. But from start to finish the burden of the statement that we have heard from the professor appears to be that—"Such complaints have been made to me." Nowhere did he say—"I have made enquiries about the complaints and found them true." As far as I am able to understand English, I think nowhere does there occur even the slightest hint that he has brought these charges after having made personal enquiries. A certain class of persons have brought these charges and another class of persons have published them in the newspapers. I should like to

tell the learned professor that Mr. Intfat has no place in the Moslem community, nor has he any right to say anything against the Moslem community.

The Hon'ble PRESIDENT: The less you speak about the gentlemen not present here, the better.

Maulana MUHAMMAD AKRAM KHAN: I respectfully bow to the ruling of the Hon'ble President. The events and happenings to which the learned professor has referred in the introductory portion of his speech produce the impression that a serious and terrible situation has arisen in the Noakhali district. But ever since the present Government came into office, I have not heard of any event actually occurring as may necessitate the institution of an enquiry committee. Perhaps, the fact is that somebody has assaulted somebody else at a certain place or that somebody has cut away somebody else's paddy.

Most of those who live in Bengal are aware that the season for reaping paddy commences from the month of *Bhadra* and lasts for two or three months. As for assaults, these are committed by Hindus on Hindus themselves as well as by Moslems on Moslems themselves. Where the Moslems pre-dominate, the culprits are mostly Moslems and where the Hindus are in a majority, the culprits are mostly Hindus. This matter is neither so new nor so unusual as to necessitate the appointment of an enquiry committee.

If you recapitulate the history of the meetings that were held in the public squares in Calcutta during the last two years, you will find that the events in the Noakhali district which have been discussed here will pale into insignificance when compared with the fights, assaults and violence committed in those meetings by highly educated politicians amongst themselves.

The learned professor has referred to the sale of a certain article at places exposed to public view. I shall be obliged if the Hon'ble Minister enquires into this matter.

IX.—Resolution urging adoption of the Sixth Report of the Committee of Privileges.

(*Speech delivered on 16th January, 1940; see page 903.*)

Maulana MUHAMMAD AKRAM KHAN: Mr. President, I want to say only one word after Kamini Babu's speech. I have repeatedly said in this House, as also before the Committee that the word "artful" was used in the headline of a report. In the editorial article of the day following, it was contradicted and withdrawn in very clear language. I think in the report of the Committee no reference has been made to this contradiction and withdrawal.

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